

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

JANE FIELY,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 3:13-CV-2005
)	Judge Carr
ESSEX HEALTHCARE CORPORATION,)	
et al.,)	
)	
Defendants.)	

- - -

Deposition of LORRAINE R. FISCHIO, a
Witness herein, called by the Plaintiff as if
upon Cross Examination, pursuant to the Federal
Rules of Civil Procedure, taken before me, Teri
Genovese Mauro, Registered Professional
Reporter, a Notary Public in and for the State
of Ohio, at the offices of Marshall & Morrow,
250 S. Civic Centre Drive, Columbus, Ohio, on
Monday, August 18, 2014, commencing at 10:11
a.m.

- - -

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I N D E X

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2 On behalf of the Plaintiff:

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By: BRIAN R. GARRISON

9 ALSO PRESENT: Jane Fiely
10 Susan Kreuser

11 - - -

12 LORRAINE R. FISCHIO,
13 a Witness herein, called by the Plaintiff as if
14 upon Cross Examination, was by me first duly sworn,
15 hereinafter certified, testified and said as follows:

16 - - -

17 CROSS-EXAMINATION

18 BY MR. FRANKLIN:

19 Q Please state and spell your full name for
20 the record, please.

21 A Lorraine, L-O-R-R-A-I-N-E, R., Fischio,
22 F-I-S-C-H-I-O.

23 Q Miss Fischio, what's the R stand for?

24 A Renee.

25 Q Have you been known by any other names?

1 A My maiden name is Calim, C-a-l-i-m.

2 Q When did you get married?

3 A 1983.

4 Q At that time, did you take your husband's
5 name?

6 A Uh-huh. I did.

7 Q What's your husband's first name?

8 A Richard.

9 Q What's your current business address?

10 A 75 Mote Drive, M-O-T-E, Covington,
11 C-O-V-I-N-G-T-O-N, Ohio, 45318.

12 Q What business is located at that address?

13 A Covington Care Center.

14 Q And how long has that been your business
15 address?

16 A Three months.

17 Q What's your residential address?

18 A 9604 Cemetery Road, Wapakoneta, Ohio,
19 45895.

20 Q How long has that been your residence?

21 A Since 2004.

22 Q Do you reside at that location with anyone
23 over the age of 17?

24 A My husband.

25 Q Anyone else?

1 A My son.

2 Q What's his name?

3 A Nicholas, N-I-C-H-O-L-A-S.

4 Q What's his last name?

5 A Fischio.

6 Q What's his age?

7 A Thirteen.

8 Q Okay. Anyone else over the age of 17?

9 That was --

10 A No.

11 Q -- my question. Okay. Just you and

12 Richard?

13 A Uh-huh.

14 Q Yes?

15 A Uh-huh. Yes.

16 Q What's your date of birth?

17 A 8/28/61.

18 Q Have you had your deposition taken before?

19 A One time probably 30 years ago.

20 Q What was the nature of that case?

21 A I worked for a shoe store and they had
22 something that came up missing.

23 Q Did they blame you?

24 A No, but they asked everybody to sit
25 through questioning.

1 Q You had to raise your right hand and swear
2 to tell the truth?

3 A (Witness nodded.)

4 Q Was there a court reporter present?

5 A I don't remember if there was or wasn't.

6 Q Was there an actual -- was there actually
7 a lawsuit filed?

8 A I don't know.

9 Q Were you represented by counsel?

10 A No.

11 Q Okay. What was the final -- what did they
12 finally discover in that case?

13 A I don't know for sure.

14 Q Did you have to sit through a polygraph?

15 A No, I don't think so. I think I just was
16 asked a series of questions.

17 Q Was it by an attorney?

18 A I don't know who it was.

19 Q Well, I'm sure it's been explained to you
20 but you can see that we have a court reporter, so
21 you'll need to keep your answers audible. I may see
22 that you're nodding your head or shrugging your
23 shoulders, but the court reporter can't take that
24 down.

25 A Okay.

1 Q In general conversation, people anticipate
2 questions and start to answer the question before
3 it's completed. Even though you may correctly
4 anticipate my question, I ask that you allow me to
5 finish my question and I'll allow you to finish your
6 answer. That way when we read the transcript,
7 there's not the beginning of my question, the
8 beginning of your answer, the end of my question,
9 the end of your answer.

10 If I ask you a question that you don't
11 understand, I want you to tell me that you don't
12 understand my question and what part of my question
13 you don't understand. I'll then try to rephrase my
14 question and put it in a form that you will
15 understand.

16 There may be times that you give an answer
17 that I don't understand. That doesn't mean I don't
18 believe your answer. You just may be using some
19 phraseology in the workplace I'm unfamiliar with and
20 I may have to ask some follow-up questions so that I
21 completely understand your answer.

22 If at any time you want to take a break,
23 as long as there's not a question pending, just
24 indicate out loud on the record you'd like to take a
25 break and we'll take one. Okay?

1 A Okay.

2 Q Did you review any documents in
3 preparation for your deposition today?

4 A I did.

5 Q What documents did you review?

6 A I have copies here if you want to see
7 them.

8 Q Sure.

9 A Oh, no, I don't. I left them in the car.
10 I reviewed -- I reviewed some statements that I
11 acquired from some staff and I reviewed some
12 employee evaluations.

13 Q Anything else?

14 A Couple of e-mails.

15 Q Who were the e-mails from and to, and what
16 was the nature of the e-mail?

17 A One e-mail was from me to Susan Kreuser,
18 the HR person.

19 Q And what did it say?

20 A That I had tried to reach Jane and that I
21 was unsuccessful and that I didn't think her phone
22 number was still in service.

23 Q Okay. What other e-mails did you review?

24 A I reviewed one that was written to me by
25 Bob Huenefeld.

1 Q What was the nature of that e-mail?

2 A It was like a summary of his findings.

3 Q And that was from Bob, what's his last
4 name?

5 A It's Huenefeld.

6 Q What was your understanding as to the
7 position he held at the company at the time?

8 A I think he was like an HR director.

9 Q What position did you think Susan held?

10 A Susan is the -- I think she's vice
11 president of HR.

12 Q Did you have an understanding that Susan
13 held a higher position than Bob?

14 A Yes.

15 Q Okay. Any other e-mails that you
16 reviewed?

17 A Huh-uh. No.

18 Q No? You said statements that I acquired?

19 A Uh-huh.

20 Q Statements from who?

21 A Statements from staff that work with Jane.

22 Q Do you remember the staff members?

23 A Most of them.

24 Q Who were they?

25 A They were Kelsey Quellhorst.

1 Q Okay.

2 A Darla Michael. Ciara, I don't recall her
3 last name. Jill Roby. Liz Miller. There's a lot
4 of other staff that -- Ken Freeman.

5 Q Ken?

6 A Uh-huh. Ken Freeman. Amanda Hayes.
7 Shelby, I don't recall her last name. Marge
8 Luedeke.

9 Q What's Marge's last name?

10 A Luedeke, it's L-U-E-D-E-K-E.

11 Q Okay.

12 A That's about it.

13 Q What position did Kelsey hold when you
14 took her statement?

15 A She was a state-tested nursing assistant.

16 Q Is that an STNA?

17 A Yes.

18 Q What position did Darla hold?

19 A The same.

20 Q STNA?

21 A Uh-huh. Yes.

22 Q What about Ciara?

23 A Same, STNA.

24 Q What about Jill?

25 A Jill was a nurse.

1 Q LPN or RN?

2 A LPN.

3 Q What about Liz Miller?

4 A Liz is a diet -- food service supervisor.

5 Q How about Ken?

6 A Maintenance.

7 Q Amanda Hayes?

8 A LPN.

9 Q How about Shelby?

10 A I think Shelby's an RN.

11 Q What about Marge?

12 A Activity director.

13 Q Did you just give me a list of all the
14 staff that you remember or all of the statements
15 that you reviewed?

16 A Those were all the statements I reviewed.

17 Q Were the statements that you reviewed in
18 typed form or handwritten form?

19 A Some were typed, some were handwritten.

20 Q Okay. Was Kelsey's handwritten or typed?

21 A I think hers was handwritten.

22 Q Okay. What about Darla?

23 A I think hers was handwritten.

24 Q Ciara?

25 A Hers, I think, was typed.

1 Q Jill?

2 A I don't recall if it was typed or
3 handwritten.

4 Q Liz?

5 A Hers was handwritten.

6 Q Ken?

7 A Handwritten.

8 Q Amanda Hayes?

9 A I don't know.

10 Q Shelby?

11 A I don't know.

12 Q Marge?

13 A Hers was typed.

14 Q Do you recall what Amanda Hayes, the
15 nature of what she wrote?

16 A This -- this pertained to an incident that
17 happened maybe a couple years ago regarding an
18 altercation that her and Jane got into it at the
19 nursing station over.

20 Q Okay. So you took -- she gave you a
21 handwritten note regarding an incident that happened
22 years earlier?

23 MR. GARRISON: Objection. Form.

24 Q Go ahead and answer, if you can.

25 A Well, she -- this is a couple -- a couple

1 years ago we had been having some problems, and I
2 asked the staff to give me some feedback, and she
3 either told me verbally or wrote it in writing. One
4 of the two.

5 Q Well, typically if you write something,
6 it's in writing?

7 A Well, she either gave me a verbal report
8 or she wrote it, but she gave me the information
9 that she had had a conflict with Jane at a nursing
10 station.

11 Q Okay. You told me -- I asked you -- I
12 think I asked you about all of the documents that
13 you reviewed and you said one of the documents was
14 from Amanda --

15 A Uh-huh.

16 Q -- Hayes?

17 A Right.

18 Q So you recall reviewing a document from
19 Amanda Hayes that she had written years ago or that
20 you had asked her to write based on something that
21 happened years ago?

22 A Well, this -- I had asked her to write a
23 statement of an event that happened back in 2011 or
24 2012. Those were part of the statements.

25 Q Okay. But you asked her when?

1 A Back at that time to write a statement.

2 Q Okay. Did she write the statement?

3 A She either wrote it or she told me
4 verbally and I wrote it, one of the two. I can't
5 remember if she wrote it herself or if she just told
6 me about it and I wrote it down.

7 Q So when you're saying that you reviewed a
8 document from Amanda Hayes, it may have been a
9 document that you drafted?

10 A It might have been at that time. I can't
11 recall.

12 Q Okay. But when did you draft the
13 document? At the time of the incident or years
14 later?

15 A No. No. It was at the time of the
16 incident. It would have been sometime in 2011 or
17 2012.

18 Q Okay. But you don't recall if you
19 reviewed your own handwriting or someone else's
20 handwriting?

21 A Well, two years ago I would have gotten
22 the information from Amanda in some fashion, either
23 a personal interview or a handwritten note.

24 Q Okay. You told me that you reviewed
25 documents in preparation for the deposition?

1 A I looked over some statements.

2 Q Okay. And one of the documents was
3 Amanda's document, correct?

4 A Uh-huh.

5 Q Is that a document that you drafted or
6 that she drafted?

7 A I'd have to look at it again to tell you.

8 Q Okay. When did you review these documents
9 in preparation for your deposition?

10 A About 25 minutes ago.

11 Q Okay. So you don't remember from 25
12 minutes ago if it was your handwriting or Amanda's?

13 A Well, I reviewed a lot of documents at one
14 time. Some were handwritten and some were typed.
15 I'd have to just look at it again and I can tell
16 you.

17 Q Okay. So with respect to Amanda Hayes, it
18 may or may not be handwritten, you don't know,
19 correct?

20 A Correct.

21 Q And it may or may not be something you
22 drafted?

23 A It was something -- if it's something that
24 I typed up at the time, it was based on a report
25 from her.

1 Q Okay. Well, where did you get the report?
2 Why not just put the report in?

3 A Because at that time she asked me not to
4 expose her to Jane. She was worried about some type
5 of retaliation.

6 Q Oh, really? Did you write that down
7 somewhere?

8 A No. That was just the way -- some of the
9 people gave me statements in writing and some people
10 chose not to.

11 Q Okay. Well, is there a list somewhere of
12 all of the people that you asked for statements
13 from?

14 A No. I walked -- I went out and talked to
15 the staff at the time. I had some reports that
16 there were conflicts, and I went out and asked the
17 staff to give me any information they had regarding
18 their relationships with Jane.

19 Q Okay. When was that? Are we talking in
20 '13 or '10 or '11?

21 A No, we're talking about sometime back in
22 2011 or 2012.

23 Q 2011 or 2012 you asked the staff members
24 to write if they had problems with Jane or --

25 A I had gotten some verbal reports that

1 there were problems and I asked -- I met with Jane
2 and I told Jane about some of the issues and Jane
3 didn't believe me, didn't feel that that affected
4 her in any way, and asked for proof. So I went out
5 and said, okay, I'll find proof. And I asked the
6 staff to give me information regarding good and bad
7 interactions with Jane.

8 Q Okay. This prior time --

9 A Uh-huh.

10 Q -- the time in '11 or '12, of the list of
11 people that you gave me, which ones are you saying
12 gave you the information in '10 or '11 or '11 and
13 '12? Amanda?

14 A Amanda.

15 Q Okay. What about Shelby?

16 A Shelby, uh-huh.

17 Q Now, Shelby's statement, was that
18 something that you wrote or you typed?

19 A I have to look at it again. It's been too
20 long ago, but Shelby gave me a handwritten note and
21 I probably retyped it or put it into some type of
22 report.

23 Q Okay. But when you reviewed the documents
24 in preparation for your deposition 25 minutes ago,
25 now maybe 30 minutes or so ago, did you look at

1 what, let's say, Shelby actually wrote or were you
2 looking at what you wrote from Shelby's alleged
3 note?

4 A I believe I looked at both.

5 Q Both?

6 A I believe.

7 Q Okay. Is your name on the one that you
8 typed or wrote?

9 A Yes. Yes.

10 Q Okay. And is Shelby's name on the one
11 that she wrote or typed?

12 A I don't remember.

13 Q Okay. How about Ken, was his --

14 A Ken's name was on the bottom.

15 Q -- in '10?

16 A I remember seeing it.

17 MR. GARRISON: Wait till he finishes
18 his question.

19 Q Was his in '11 or 12 or was it in '13?

20 A I don't recall the exact date.

21 Q Okay. Well, I'm just trying to figure out
22 if it's based on this final --

23 A This was --

24 Q -- confrontation or the prior?

25 A This was some time ago. This would have

1 been '11 or '12.

2 Q '11 or '12?

3 A Uh-huh.

4 Q Okay. What about Liz Miller, was hers '11
5 and '12 or '13?

6 A Liz was current.

7 Q Current. So hers was a current statement.
8 What about Jill?

9 A Current.

10 Q What about Ciara?

11 A Current.

12 Q What about Darla?

13 A Current.

14 Q What about Kelsey?

15 A Current.

16 Q Now, is there a list somewhere of -- back
17 in '11 or '12 of the people that you asked that just
18 decided not to?

19 A No.

20 Q Why not?

21 A It wasn't a formalized -- we weren't doing
22 a formal investigation.

23 Q When you say "we," are you talking about
24 yourself in the third person or are you talking
25 about yourself?

1 A I'm talking about myself and the company.
2 This was not a formal investigation.

3 Q Well, you said we didn't conduct a formal
4 investigation. Are you talking about you and other
5 people or just you?

6 A Just me.

7 Q So you're talking about yourself in the
8 third person?

9 A Uh-huh. Uh-huh.

10 Q Yes?

11 A Yes.

12 Q So how do you know that Jane didn't
13 believe the accusations that you were making in 2011
14 and 2012 where you thought you needed to get proof?
15 What did she say?

16 A Well, Jane did not recall any of the
17 incidents. I don't believe she could recall
18 anything specific, and I needed to give her
19 information to use to coach.

20 Q Okay. Did you do that?

21 A I did. I met with Jane.

22 Q Along with the handwritten notes that you
23 had from the employees?

24 A I gave her a packet of information to
25 review.

1 Q Okay. Was it the handwritten notes from
2 the employees?

3 A I can't recall. I believe it's the same
4 form that I just reviewed. Some probably were
5 handwritten, some weren't.

6 Q Well, did you give her the handwritten
7 notes from the employees or the handwritten -- or
8 the typed or handwritten notes that you created?

9 A I think I gave her both, but I --

10 Q Okay. Did you give her both to keep?

11 A I handed them to her to review.

12 Q Okay. Did you tell her she could keep
13 them or she had to turn them back in?

14 A I don't remember.

15 Q Okay. Did you tell her that some of these
16 I created from conversations or what I read? Did
17 you tell her that?

18 A I don't recall.

19 Q Okay. You said that was -- you were using
20 it for coaching?

21 A Yes.

22 Q Is that a term of art? Is that something
23 that's used in the business? What is coaching?

24 A Well, I think coaching is trying to help
25 someone understand. Help them focus on areas that

1 need improvement.

2 Q Is coaching part of discipline?

3 A No.

4 Q Okay. The e-mails that you reviewed from
5 you to Susan, were those things that happened in '11
6 and '12 or in '13?

7 A I think it was just the issue of the
8 current day of '13.

9 Q '13?

10 A (Witness nodded.)

11 Q The document that you reviewed from Bob,
12 did that concern things in '11 and '12 or things in
13 '13?

14 A '13.

15 Q The documents that you reviewed in
16 preparation for your deposition, did you have those
17 at home or were they supplied to you by someone?

18 A I had a copy that I had with me.

19 Q You had a copy of the documents?

20 A I had a copy of the information that I
21 sent to Bob Huenefeld and, yes, I had a copy.

22 Q So a copy at your home?

23 A I'm not sure. I think I had them at work,
24 and when I left the company, I probably kept them.

25 Q You kept company documents when you left?

1 A Well, they weren't -- I don't believe they
2 were company documents.

3 Q Why do you believe they weren't company
4 documents? You're talking about employees'
5 statements?

6 A Well, I don't know. When I cleaned out my
7 desk, I took them with me.

8 Q Okay. My question is do you consider
9 employee statements company documents?

10 A Yes.

11 Q Okay. Do you consider e-mails that are to
12 and from individuals who work for the company
13 company documents?

14 A Yes.

15 Q So why -- what documents did you take that
16 you didn't consider to be company documents?

17 A I didn't take any documents that I didn't
18 consider to be company documents.

19 Q Okay. Did you have a notebook that you
20 wrote on at work?

21 A Yes.

22 Q Okay. What happened to the notebook?

23 A I think I destroyed it, but I can't
24 recall.

25 Q Well, tell me about the notebook. Was it

1 a spiral-bound notebook, a three-ring binder? What
2 was it?

3 A I kept a couple of notebooks.

4 Q Okay.

5 A And I cleaned out my desk. I don't recall
6 what I did with them. I probably pitched them.

7 Q Not asking that yet.

8 A Oh.

9 Q Were they spiral notebooks? Were they
10 three-ring notebooks? What were they?

11 A Normally I would use a legal tablet.

12 Q Okay. So when you say you had a couple of
13 notebooks, were they both legal tablets?

14 A Yes.

15 Q Okay. Were they the size that I'm holding
16 up or were they bigger legal tablets?

17 A They're the normal size.

18 Q Okay. What distinguished the two
19 notebooks? Did you put certain information on one
20 notebook and certain information in the other
21 notebook? How did that work?

22 A I used one for a to-do list.

23 Q Okay. What was the other one for?

24 A General notes.

25 Q Did you only go through the one legal pad

1 while you were there? Did you go through several?

2 A I don't recall. More than one.

3 Q Okay. Well, did you save those notebooks?

4 A No.

5 Q Does the company have a document retention
6 policy that you're aware of?

7 A No.

8 Q Did anyone ever talk to you about a
9 litigation hold?

10 A No.

11 Q No one ever told you to save documents
12 related to the day-and-day operations of the
13 facility, in particular Jane?

14 A No.

15 Q Were there anything in those documents
16 related to Jane, either her employment or
17 termination?

18 A No.

19 Q Then what were the documents -- what did
20 you put in the second notebook? What notes were in
21 there?

22 A Nothing related to Jane. Just work issues
23 that needed to be addressed.

24 Q Isn't Jane a work issue?

25 A Not a primary one, no.

1 Q Well, are you saying you only put primary
2 issues in the notebook?

3 A Yes. Pretty much, yes.

4 Q Where -- do you have any of those
5 notebooks left?

6 A No.

7 Q Okay. When was the last time you saw one
8 of your notebooks?

9 A Well, I think I disposed of one or two the
10 night that I cleaned my desk out.

11 Q Okay. When was that? When did you clean
12 your desk out?

13 A Sometime around March or April this year.

14 Q March or April of 2014?

15 A Uh-huh.

16 Q Yes?

17 A Yes.

18 Q You have to answer audibly. Did you look
19 through the notebook before you threw it away?

20 A I looked through everything before I
21 pitched it.

22 Q Okay. But did you look through the
23 notebook before you threw it away?

24 A Not to study it. I just probably rifled
25 through it to see if there was anything stuck in it

1 before I just -- I cleaned out a bunch of stuff and
2 just put it in the shredder.

3 Q Well, before you cleaned out a bunch of
4 stuff and put it in the shredder, did you make sure
5 that there was nothing in the documents related to
6 Jane's employment or termination?

7 A There was nothing there in my -- about
8 Jane, no.

9 Q Well, you said you rifled through it and
10 you didn't study it.

11 A Uh-huh.

12 Q Does that mean you just flipped through it
13 to make sure nothing was stuck in between the pages?

14 A These were things that weren't relevant to
15 anything. These were just notes of telephone calls
16 or notes of activities I needed to work on, things
17 of that nature. There was nothing of a specific
18 employee type --

19 Q What do you mean there was nothing
20 relevant? Were you making that decision?

21 A Yes.

22 Q Now, the notes that you looked at to
23 prepare yourself for today's deposition, were they
24 provided by the attorney or did you bring those
25 notes with you?

1 A They were provided by the attorney.

2 Q Okay. So all of the documents that you
3 had, the e-mails that you discussed and the
4 evaluations, those were documents the attorney
5 provided, correct?

6 A Yes.

7 Q Okay. Did you have any documents that you
8 brought --

9 A No.

10 Q -- or reviewed in preparation for your
11 deposition?

12 A No. I downloaded from the computer is
13 what I reviewed.

14 Q What do you mean you downloaded from the
15 computer?

16 A I got a copy of something from either
17 Susan or Brian with notes on it and reviewed those.

18 Q Okay.

19 A Whatever.

20 Q From Susan or Brian?

21 A Uh-huh.

22 Q Do you know if it was from Susan or if it
23 was from Brian because that makes a difference?

24 A I don't recall.

25 Q Do you still have the e-mail?

1 A I don't -- this was months ago. I don't
2 recall. I think I was still employed with the
3 company at that point.

4 Q Okay.

5 MR. GARRISON: He's asking you about
6 this -- preparation for this deposition.
7 The documents you reviewed in preparation
8 for today. Am I right, John?

9 MR. FRANKLIN: Absolutely.

10 MR. GARRISON: And who you received
11 those documents from.

12 A That's what I'm saying. I printed off a
13 copy of those documents from somebody a while ago,
14 and after I left the company, I held on to them
15 because I figured we would need them, but I
16 didn't -- I don't recall who sent them to me.

17 Q Okay. Well, let's just get a list of
18 documents that you held on to when you left. Were
19 they the documents we've already discussed? Yes?

20 A Yes.

21 (Whereupon, Susan Kreuser came into
22 the room.)

23 Q Any other documents?

24 A No.

25 Q Did you ever produce the notebooks to

1 anyone above your reporting level so they could look
2 through the notebooks to see if there was anything
3 that may be relevant to this case?

4 A No. And the notebooks I'm describing are
5 just work notebooks that you would use in everyday
6 office practices.

7 Q Those are the notebooks we'd like to look
8 at. Do you have private notes at home related to
9 Jane or Jane's termination?

10 A No.

11 Q Do you have -- did you keep any documents
12 on any kind of external drive or stick related to
13 your employment?

14 A No.

15 Q So you didn't forward like your e-mails
16 anywhere?

17 A No.

18 Q Did you have a company laptop?

19 A No.

20 Q Did you have a company desktop?

21 A Yes.

22 Q Did you transfer the information from the
23 hard drive on the desktop to anywhere?

24 A No.

25 Q Did you leave the computer when you left?

1 A Yes.

2 Q Did you wipe anything from the computer?

3 A No.

4 Q With respect to e-mails, did you delete
5 e-mails or did you just save every e-mail?

6 A I didn't delete anything --

7 Q Okay.

8 A -- that I recall.

9 Q Do you have a laptop at home?

10 A No.

11 Q Do you have a desktop at home?

12 A Yes.

13 Q Is there -- are there any documents
14 related to your former employer at home on that
15 desktop?

16 A I don't recall.

17 Q Well, did you look through it?

18 A No.

19 Q When did you leave the company? What was
20 the date?

21 A I don't recall. Sometime toward the -- I
22 think it was towards the middle to end of March of
23 this year.

24 Q Middle or end of March?

25 A I think so.

1 Q When did you start with your new employer?

2 A I started there on -- I think May, first
3 week of May.

4 Q Why did you leave the company?

5 A I got a better offer.

6 Q Had you been looking for work?

7 A Yes.

8 Q How long had you been looking?

9 A Probably two, three months.

10 Q Two or three months before you left?

11 A Yes.

12 Q So would you -- would your testimony be
13 that you started looking for a job in January of
14 '14?

15 A Probably close to there.

16 Q Why were you looking for another job?

17 A I felt like I had accomplished most of the
18 things that needed to be done there, and I was
19 looking for a different opportunity and more money.

20 Q You think that you accomplished everything
21 that needed to be done there?

22 A Uh-huh.

23 Q Yes?

24 A Yes.

25 Q Okay. What were the things that you

1 accomplished that led you to the conclusion that you
2 had accomplished everything that needed to be done
3 there?

4 A Well, we had consistently high occupancy.
5 We rolled into a five-star facility.

6 Q What does that mean?

7 A Five star rating is like -- it's a CMS
8 rating and it's from 1 to 5. It determines how well
9 a facility is viewed by the community. Five star
10 being the highest. We -- we did the application to
11 the American Health Care Society. We got the silver
12 award which is a very good --

13 Q When did you get the silver award?

14 A Sometime -- I think we got notice
15 sometime -- I don't know, a couple weeks after I
16 left.

17 Q Had you ever got the silver award before?

18 A No.

19 Q Is there a bronze, silver, and gold?

20 A Yes.

21 Q Had you ever gotten the bronze before?

22 A Yes.

23 Q When did you get the bronze?

24 A Sometime back in, I think, 2012.

25 Q While Jane was the DON?

1 A Yes.

2 Q What else did you feel that you
3 accomplished?

4 A I felt like the building was stable and
5 that the -- that it was being well ran and good
6 community reputation.

7 Q Well, I mean, you didn't get the gold
8 award, right?

9 A Well, they're progressive. You have to go
10 through steps.

11 Q Okay. Well, so there was something left
12 to accomplish, correct?

13 A I don't think the building would ever have
14 been capable of achieving a gold standard.

15 Q Why not?

16 A There were some things that needed to be
17 completed.

18 Q Like what?

19 A More computer -- I think we needed better
20 computerized systems for tracking. We needed to
21 probably improve the physical plant a little bit
22 more.

23 Q The physical plant?

24 A Uh-huh.

25 Q What does CMS stand for?

1 A Center for Medicare Services.

2 Q Well, did you apply for other positions
3 within the company?

4 A There truly weren't any other positions
5 within Atrium available.

6 Q So your testimony is no --

7 A No.

8 Q -- you didn't apply?

9 A No, I didn't apply.

10 Q You said there weren't any positions
11 available. How do you know that?

12 A Well, in order to go further in the
13 company, I felt like you really needed to be more
14 mobile and I wasn't willing to travel extensively.

15 Q Okay. Well, I mean, were you looking at
16 job opportunities on-line?

17 A I was actually approached by another
18 company.

19 Q Okay. But I'm saying for -- you said that
20 you didn't think there was anything within the
21 company available, and I asked you how you knew
22 that.

23 A Uh-huh.

24 Q And I'm just wondering is there like an
25 intranet that you could look at? Was there a phone

1 that you could call and check job openings? How did
2 that work?

3 A Well, I would say word of mouth.

4 Q Word of mouth. Okay. Anything other than
5 word of mouth?

6 A There -- you could have gone to possibly
7 CareerBuilder. That was popular.

8 Q So you would go onto CareerBuilder to see
9 if there was an opening within your own company?

10 A Yes.

11 Q Did you ever do that?

12 A No.

13 Q Okay. Again, I'm trying to find out how
14 you knew there were no openings within the company.
15 Other than word of mouth, is there something else
16 that you looked at?

17 A There may have been openings in the
18 company, but nowhere in my immediate area. I wasn't
19 willing to drive more than --

20 Q Okay. But how do you know that?

21 A That would be something I would determine
22 from my boss, my supervisor.

23 Q Who's your supervisor?

24 A Barry DeRossett.

25 Q Did you ever ask Barry if there were any

1 openings?

2 A No.

3 Q Did you ever ask anyone in human resource
4 if there were any openings, like Bob?

5 A No. If there had been an opening, Bob
6 probably would have shared it with me.

7 Q Why? Did you tell Bob share with me any
8 openings within the company?

9 A No, but it was a very small company and
10 word of mouth between administrators would have -- I
11 would have found out if there was an opening.

12 Q What do you mean it was a small company?
13 How many facilities does the company operate?

14 A Well, in my area, there were only, I
15 think, three within my driving distance, even close.

16 Q Okay. But how many overall do you think
17 the company operates?

18 A Probably 40, 40 or 50.

19 Q Well, did you call Susan and ask her if
20 there were any openings?

21 A No.

22 Q Did you have the other position before you
23 left?

24 A It was fairly simultaneous, within a day
25 or two.

1 Q Well, I mean which happened first? You
2 told me that you left in March and began your new
3 job in May.

4 A Uh-huh.

5 Q So that's a couple months --

6 A Uh-huh.

7 Q -- where you weren't working.

8 A Uh-huh.

9 Q So did you leave and then get the job at
10 Coventry or did you already have the job at Coventry
11 and then leave?

12 A I -- it was close. I was in the process
13 of negotiating, but I don't -- I can't recall which
14 came first, if I left or took the offer. It was
15 somewhere during a period of a few days.

16 Q I mean, did you go to anyone at the
17 company and say I have this offer from Coventry, but
18 I'd really like to stay here, is there anything you
19 can do?

20 A No.

21 Q Were you asked to find another job?

22 A No.

23 Q Was there something that was going on that
24 you weren't happy with at the company so you decided
25 to leave other than your claim that there weren't

1 any jobs available above your reporting level at
2 that time?

3 A There were a couple of things that were
4 frustrating. Staffing levels were not really
5 properly maintained. We had a need for a sheltered
6 walkway that was taking quite a while to deliver.
7 And basically, I had -- the size of the building was
8 small. I think I had maxed out any potential there
9 and was looking to go on to a different -- larger
10 opportunity. So --

11 Q What do you mean the staffing levels
12 weren't properly maintained? What does that mean?

13 A We were struggling to maintain and keep
14 staff, and we were meeting our state-required goals
15 but doing it by using department managers to
16 supplement.

17 Q What jobs were you not able to maintain?

18 A We were able to maintain the
19 state-required staffing.

20 Q I get that, but you said that you used
21 other employees to fill certain roles?

22 A Uh-huh.

23 Q I mean, what were you having trouble --
24 which job, STNAs?

25 A STNA.

1 Q Okay. How would you get STNAs to work
2 there?

3 A Well, we would advertise.

4 Q Okay. Advertise where?

5 A In CareerBuilder and the newspaper.

6 Q On CareerBuilder?

7 A Uh-huh.

8 Q And what newspaper?

9 A The Daily Standard.

10 Q Anything else?

11 A Try to do some employee recruitment.

12 Q Okay. How would you do that?

13 A Ask our good employees for referrals.

14 Q Well, did you do something for the good
15 employee if they referred someone?

16 A We would give them some form of
17 compensation.

18 Q Okay. Financial compensation?

19 A I think we paid out some kind of a
20 recruitment bonus, but I don't remember how much or
21 how often.

22 Q Okay. An STNA, how long does it take a
23 person to get that certification? Is there like a
24 class?

25 A Somewhere between two to four weeks maybe.

1 Q Where do they take those classes, if they
2 do?

3 A In our area, it was probably the Apollo,
4 JVS.

5 Q Okay. Did you recruit there?

6 A We would call or put a poster up.

7 Q Other than STNAs, were you having trouble
8 maintaining any other positions?

9 A No. That was primarily --

10 Q Okay. When you left in March of '14, was
11 Kelsey still working?

12 A As far as I recall.

13 Q Okay. Was Ciara still working?

14 A I don't remember.

15 Q Was Jill still working?

16 A Yes.

17 Q How do you know that for sure?

18 A Well, she -- I think she was still working
19 at the time I left. She called me the other day and
20 I think she said she's still there.

21 Q Why did she call you the other day?

22 A Just to say hello and to let me know she's
23 pregnant.

24 Q Did you talk about Jane in any way?

25 A No.

1 Q Was Darla still there?

2 A I don't think so.

3 Q Was Liz still there?

4 A When I left?

5 Q Yes.

6 A Yes, Liz was there.

7 Q Was Amanda still there?

8 A Yes.

9 Q Was Shelby still there?

10 A No.

11 Q When did she leave?

12 A Couple years ago.

13 Q Did she resign?

14 A I think so. I don't recall for sure.

15 Q So are you saying that you don't have
16 present day recollection?

17 A Yes. That would be a good --

18 Q Okay. What about Marge?

19 A Marge is still there.

20 Q Who do you stay in contact with now that
21 you've left?

22 A I've talked to several people in the last
23 few months. I've talked to Erika Ritenour.

24 Q Is she the new DON?

25 A Yes.

1 Q Okay. Who else?

2 A Gabbie.

3 Q What's Gabby's position?

4 A Gabby is a unit manager.

5 Q Okay. Who else?

6 A I've talked to Kat Klosterman.

7 Q Kat?

8 A Katherine Klosterman.

9 Q What's her position?

10 A Katherine is the MDS nurse.

11 Q What's MDS stand for?

12 A Minimum data set.

13 Q Okay. Anyone else?

14 A Talked to Lisa Inskeep.

15 Q What position did she hold?

16 A Missions marketing.

17 Q Okay. Anyone else?

18 A I think that's it.

19 Q Did you talk to any of these employees
20 about Jane --

21 A No.

22 Q -- in any way?

23 A No.

24 Q Didn't talk to Lisa about her?

25 A No. I don't recall that.

1 Q Well, when you say you don't recall,
2 again, does that mean it could have happened, you
3 just don't have present day recollection?

4 A I don't -- no. I'd say no.

5 Q Okay.

6 A I can't remember the verbiage of every
7 phone call, but no, I don't remember that.

8 Q Okay. When you say you don't remember --

9 A No present day recollection.

10 Q Okay. Is it possible that you talked to
11 Cathy about Jane?

12 A No.

13 Q Is it possible you talked to Gabby about
14 Jane?

15 A No.

16 Q Is it possible you talked to Erika about
17 Jane?

18 A No.

19 Q To your knowledge, who took your place?

20 A I don't know.

21 Q Has it been permanently filled or is it
22 filled with an interim director -- administrator?

23 A Oh, wait, there was a gentleman there that
24 took over for me. His name was Bob.

25 Q What's his last name?

1 A Riley.

2 Q Was it your understanding he was an
3 interim administrator or he was going to be the
4 full-time administrator?

5 A I think he was just temporary.

6 Q Okay. How many places did you put in your
7 application to in order to find the job at Coventry?

8 A One. That was it.

9 Q That was the only place you looked?

10 A That was the only place I applied.

11 Q Okay. Did you know someone that worked
12 there?

13 A I knew someone that recommended me for the
14 job, yes.

15 Q Who was that?

16 A Amy Kentner.

17 Q Kentner?

18 A Uh-huh.

19 Q Yes?

20 A Yes.

21 Q What position did she hold with Coventry,
22 if she did?

23 A She works for the same corporation. She
24 works at a different facility. It's the same
25 corporation.

1 Q What position does she hold?

2 A Administrator.

3 Q She's an administrator? Did the two of
4 you ever work together?

5 A Yes.

6 Q Okay. Where did the two of you work
7 together at?

8 A At Wapak Manor.

9 Q Where's Wapak Manor?

10 A It's in Wapakoneta, Ohio.

11 Q What did the two of you do there?

12 A I was the administrator and she was the
13 director of nursing.

14 Q Okay. And then she went from a DON to
15 administrator?

16 A Yes.

17 Q Okay. When did that happen, if you know?

18 A Sometime maybe 2012, 2011.

19 Q Okay. We'll get back to that. Tell me
20 all of the counties and states you've lived in as an
21 adult since you've turned 18.

22 A Okay. What was it, county and state?

23 Q County and state.

24 A Summit County, Ohio.

25 Q Okay. That's in Akron, right?

1 A Right.

2 Q What years or year did you live in Summit
3 County?

4 A I lived there from 1980 --

5 Q Okay.

6 A -- to 1987.

7 Q Okay. What other county and state did you
8 live in?

9 A I lived in Shelby County.

10 Q Ohio?

11 A Ohio.

12 Q Anywhere else?

13 A I've lived in Allen County, Ohio.

14 Q Lima?

15 A Bluffton.

16 Q Bluffton. All right.

17 A And I've lived in Auglaize County.

18 Q Is that everywhere you've lived?

19 A Since I've been 18?

20 Q Yes.

21 A Yes.

22 Q Have you ever been a plaintiff in a
23 lawsuit? You've sued someone?

24 A I'm trying to recall. No.

25 Q Have you ever been a defendant in a

1 lawsuit?

2 A Yes.

3 Q Okay. When were you a defendant in a
4 lawsuit?

5 A I was a defendant in a lawsuit from
6 Moulton Gas Company in -- sometime in the '80s.

7 Q Who was suing you?

8 A Moulton Gas Company.

9 Q They were suing you?

10 A (Witness nodded.)

11 Q What were they suing you for?

12 A It was something about -- they moved a
13 tank, a propane tank. They filled it up and did
14 something else to it and then charged us for it and
15 we actually -- well, then I guess I was the
16 defendant, but then we actually didn't have to pay
17 it. They did it on their own or something. I don't
18 know. They just did it and there was some
19 confusion.

20 Q Well, did they sue you?

21 A Yes, they did.

22 Q Okay. Where was the lawsuit filed?

23 A Somewhere around Shelby County.

24 Q Was it in state court or federal court?

25 A I guess it was state.

1 Q Was your husband also sued?

2 A Yes.

3 Q Anyone else a defendant in that case?

4 A No.

5 Q Okay. How did the case conclude?

6 A They dropped it and agreed they made a
7 mistake and didn't charge us for it.

8 Q They dismissed the case?

9 A Yes.

10 Q And they agreed in writing they made a
11 mistake?

12 A No. They just said that they had done --
13 they sent a letter or something that said that they
14 had acted wrongly or something and said that we
15 didn't have to pay the bill.

16 Q Did you have a lawyer?

17 A No.

18 Q Any other times you've been a defendant in
19 a lawsuit?

20 A No. That's it.

21 Q Other than today and the case with Moulton
22 Gas and the first case you told us about where you
23 had your deposition taken about 30 years ago, have
24 you ever been a witness in a lawsuit?

25 A No.

1 Q Okay. Other than the times we've already
2 talked about, have you ever given testimony under
3 oath?

4 A No.

5 Q Have you ever testified, for instance, in
6 an unemployment hearing?

7 A No.

8 Q Have you ever testified for the Ohio Civil
9 Rights Commission?

10 A No.

11 Q No administrative testimony?

12 A No, not that I can recall.

13 Q Have you ever been arrested for a
14 misdemeanor or felony?

15 A No.

16 Q Have you ever served in the military?

17 A No.

18 Q Are you a high school graduate?

19 A Yes.

20 Q When and where did you graduate from high
21 school?

22 A Wapakoneta Senior High School, 1979.

23 Q Do you have any formal post high school
24 education?

25 A Yes.

1 Q Tell me about that.

2 A I have a bachelor's in organizational
3 management and business.

4 Q Okay. Is that a BS or a BA?

5 A BA.

6 Q And what college did you go to to obtain
7 that degree?

8 A University of Akron.

9 Q What year did you attend the University of
10 Akron?

11 A 1980 to '85.

12 Q Did you attend any other schools before
13 you attended the University of Akron?

14 A I attended Kent State University for like
15 one quarter.

16 Q What year did you attend Kent State?

17 A Either '80 or '81.

18 Q Kent State was on quarters then?

19 A I think so. I went for -- I went for six
20 or eight weeks or something like that.

21 Q And then did you transfer or drop out or
22 what happened?

23 A I don't remember if I transferred or
24 started at UA. I don't remember.

25 Q What classes were you taking at Kent

1 State? What was your course of study there?

2 A I don't remember.

3 Q Was your initial course of study at the
4 University of Akron organizational and business?

5 A Was my what, please?

6 Q Was that your initial course of study,
7 what you got your degree in?

8 A Yes.

9 Q Did you go full time?

10 A Part of the way, and part time some of the
11 time.

12 Q Okay. Well, did you start out full time
13 and switch to part time? How did it work?

14 A I started out -- I think I started out
15 full time and switched to part time.

16 Q Okay. Do you have any other formal post
17 high school education?

18 A I've started my master's right after that,
19 but I didn't finish it.

20 Q Where did you attempt to get your master's
21 at?

22 A University of Akron.

23 Q What do you mean that you started to get
24 your master's? Did you go there a year?

25 A I think I took two or three courses.

1 Q What were you getting your master's in?

2 A I wasn't sure at that point.

3 Q You weren't attempting to get like an MBA
4 or anything?

5 A I was thinking business, but I wasn't sure
6 at that point.

7 Q What caused you to drop out?

8 A We moved.

9 Q What year was that that you stopped going
10 to the University of Akron?

11 A Either -- left in either '85 or '86.

12 Q Other than your driver's license, do you
13 hold any license or certifications?

14 A Well, I have my administrator's license.

15 Q Okay. When did you first get that?

16 A Oh, I think it was in 1991 or '92.

17 Q How do you go about getting an
18 administrator's license?

19 A Well, you have to fill out your
20 application.

21 Q Okay.

22 A And then I think you have to be accepted,
23 and then you have to take an internship of some
24 type.

25 Q Okay. What do you mean you have to be

1 accepted? Do I need to have a particular degree?

2 Do I need to have a degree?

3 A Well, at that time you had to have a
4 degree, but based on what type of degree you had, it
5 was determined how long your internship would be.

6 Q Okay. So how long was your internship?

7 A Nine months.

8 Q For those nine months, do you get paid?

9 A I did not. I did an unpaid internship.

10 Q What's your position when you're doing the
11 unpaid internship?

12 A Well, you're working throughout the
13 building and whatever part of your education you're
14 doing.

15 Q Well, I mean, you wanted an
16 administrator's license. Did you shadow the
17 administrator? Did you --

18 A Yeah.

19 Q -- do STNA work? What did you do?

20 A You do both. I was an STNA and I also
21 shadowed the administrator. Worked in the kitchen.

22 Q Anything else?

23 A That's pretty much it.

24 Q Do you have any medical training?

25 A I have my STNA and I'm CPR certified.

1 Q Okay. Any other medical certifications?

2 A No.

3 Q Any medical degrees?

4 A No.

5 Q Any medical license?

6 A No.

7 Q After that nine months, what happens?

8 After the internship.

9 A Then you sit for a state and federal test.

10 Q I mean, is it two tests or one test?

11 A It is two tests.

12 Q So does it matter what -- if I sit for the
13 state test first or the federal? Does it matter?

14 A I don't know that it matters.

15 Q Okay. Can I take them both on the same
16 day?

17 A I don't know. I guess you could if you
18 wanted to.

19 Q Okay.

20 A I don't know. They schedule them for you.

21 Q All right. What type of test? Is it like
22 multiple choice? Is it true/false? Is it matching?
23 Is it essay? What is it?

24 A I don't recall exact type of question.

25 Q Wait. But I'm asking for the format. Was

1 it multiple choice or was it true/false or was it
2 essay? Was it combination? Say for the state test.
3 Let's start there.

4 A I'm sorry, I don't recall the exact type
5 of questions they were.

6 Q How long did the test take, the state
7 test? How long were you given?

8 A I don't remember.

9 Q Did you get -- did you know if you passed
10 right at the time you take the test or is it weeks
11 later, months later?

12 A I remember I had to wait several weeks to
13 find out if I passed.

14 Q Okay. Do you have to pass one test in
15 order to take the next test or could you have taken
16 the state test on one day and then the very next day
17 taken the federal test?

18 A I don't know.

19 Q Okay.

20 A I just took them.

21 Q Took -- which did you take first?

22 A I think I took the state first.

23 Q Did you wait to get your score before
24 moving on to the next test?

25 A I don't recall.

1 Q Okay. With respect to the federal test,
2 is it -- do you know how long it is?

3 A I don't remember for sure.

4 Q Is it matching, true/false, multiple
5 choice or essay or a combination?

6 A I don't remember.

7 Q Did you pass the state test on the first
8 try?

9 A Yes.

10 Q Did you pass the federal on the first try?

11 A Yes.

12 Q Okay. Once you pass the federal, so now
13 you've passed both tests, what happens next in order
14 to get your administrator's license?

15 A I got a letter in the mail.

16 Q Okay.

17 A With my license.

18 Q Okay. So nothing else happens?

19 A No.

20 Q You pass both those tests, you're in?

21 A (Witness nodded.)

22 Q How long does the license last?

23 A They're granted annually.

24 Q Do you have to do anything to maintain the
25 license? Pay money or take a test or --

1 A Yes.

2 Q -- take continuing education? What do you
3 do?

4 A I do 20 hours of education.

5 Q Yearly?

6 A Yearly.

7 Q Okay. What else?

8 A There's a fee, an annual fee.

9 Q Okay. Anything else?

10 A No.

11 Q Who's the certifying body?

12 A It's a group out of Columbus.

13 Q Okay. But what are they called?

14 A They're called BENHA.

15 Q Benhall?

16 A B-E-N-H-A.

17 Q L-L? Benhall?

18 A No, BENHA.

19 Q Is that an acronym for something?

20 A Yeah. I'm trying to remember what it's
21 the acronym for. It's an examiner board.

22 Q Okay. And that's who you pay the fee to?

23 A Right.

24 Q Anything else you have to do to maintain
25 your license other than the 20 hours of education

1 and the fee?

2 A Not that I know of.

3 Q Is that an every year thing?

4 A Yes.

5 Q Okay. Do you ever provide any of the
6 education? In other words, you talk to individuals
7 so they can get their hours for their education
8 component?

9 A We do some education on-line through
10 Silverchair Relias.

11 Q No. Do you ever do it?

12 A Oh.

13 Q Like you stand up in front of a group and
14 you say here's the topic I'm going to speak on and
15 you speak for an hour or two? You provide the
16 education?

17 A Twenty years ago they did it that way.
18 Now it's on-line.

19 Q Is there someone speaking on-line?

20 A No.

21 Q Just read things on-line and take --

22 A Yes.

23 Q Do you take a test at the end of what you
24 read?

25 A Yes.

1 Q Do you have like a yearly convention, this
2 BENHA?

3 A No, not through BENHA. There's an annual
4 convention through Ohio Health Care but it's not
5 required.

6 Q Okay. Do you go to the annual convention?

7 A Once every three, four years maybe.

8 Q Do they provide written materials at the
9 BENHA -- or at the Ohio Health Care convention?

10 A Yes.

11 Q Have you kept your written materials?

12 A No.

13 Q Okay. When you've gone to the annual
14 convention put on by the Ohio Health Care, have they
15 ever given you any type of training related to the
16 FMLA?

17 A I don't recall.

18 Q In your education that you get on-line
19 that you read and then take a test, has there ever
20 been a component directed to the FMLA?

21 A I don't recall.

22 Q Okay. Have you ever received any training
23 related to FMLA?

24 A Yes.

25 Q Okay. How many times?

1 A Once or twice.

2 Q Okay. Let's talk about the first time.

3 When did that occur?

4 A Probably when the law came out.

5 Q Okay. When did the law come out?

6 A I don't recall the exact date, but it's

7 been a while. Several years.

8 Q Several years?

9 A Several years ago, I think. Yeah.

10 Q So you think on the first year it came

11 out, you got some training?

12 A I think so.

13 Q Okay. You received any training since

14 then?

15 A I received an in-service, I think, from

16 Atrium.

17 Q When was that?

18 A Maybe two years ago.

19 Q Was it before or after Jane left the

20 company?

21 A Before.

22 Q Okay. Where did the in-service take

23 place?

24 A Somewhere in Columbus.

25 Q Columbus is a pretty big city. Where do

1 you think you got the training?

2 A Either at one of the Hiltons, either in
3 Easton maybe or downtown.

4 Q Was the entire in-service related to FMLA?

5 A No.

6 Q How much of the in-service was related to
7 FMLA?

8 A Maybe an hour, hour and a half of the day.

9 Q Okay. Did you get any written materials?

10 A There's normally a handout.

11 Q Okay. But I don't want to know what
12 normally happened. Do you --

13 A I don't recall.

14 Q -- recall --

15 A I don't recall.

16 Q Let me finish my question. Do you recall
17 getting any written materials for this hour,
18 hour-and-a-half session you had on FMLA?

19 A I don't recall.

20 Q Well, did you typically keep the materials
21 from the in-service?

22 A Yes.

23 Q Okay. Where would you keep that?

24 A In an office drawer somewhere.

25 Q Okay. Well, did you consider the

1 materials that you got when you went to an
2 in-service your property or company property?

3 A I didn't consider it. I didn't think
4 about it.

5 Q Well, when you left in March of '14, did
6 you take your -- any written materials with you?

7 A No.

8 Q Okay. So you left all the written
9 materials at the -- in your desk?

10 A They would be somewhere in the office
11 unless I threw them away. I cleaned my office out.

12 Q Well, why would you throw away information
13 related to the FMLA?

14 A For one, it was probably outdated.

15 Q You think that the materials that you may
16 have received two years ago were outdated?

17 A Possibly, yes.

18 Q Okay.

19 A There had been other circulations on FMLA
20 information.

21 Q Did you throw those away?

22 A They were on-line.

23 Q Okay. So you still had access to those?

24 A Yes.

25 Q So your testimony would be if you got

1 written materials related to the FMLA at this
2 in-service that was an hour, hour and a half, you
3 probably threw it away because it was outdated?

4 A From two years ago, yes.

5 Q Yeah. Okay. You thought that the entire
6 FMLA had been rewritten in those two years?

7 MR. GARRISON: Objection to form.

8 A I believe there have been several policy
9 changes to FMLA more recently than two years ago.

10 Q And you learned that from something
11 on-line?

12 A Yes.

13 Q Okay. What is the something on-line
14 called?

15 A It would be an update from Susan or
16 from -- in Atrium's policy.

17 Q Is it your testimony that if any part of
18 your in-service training was outdated in any way,
19 you would just throw it away?

20 A I -- yeah, I would actually probably put
21 it in the shredder, yeah.

22 Q Well, if -- did you consider it your
23 property to put in the shredder?

24 A No. But you can only operate with one set
25 of policies at a time. So as policy updates are

1 issued, you discard your old policy and work with
2 your update.

3 Q Are you saying like at the in-service
4 training that lasted an hour, hour and a half, you
5 only got a few pages or were they something inch
6 thick? I mean what are you throwing away and
7 replacing?

8 A These would have been policy changes for
9 Atrium.

10 Q I mean, did you go through your old
11 materials and have the new materials in hand and
12 replace pages or did you just take what you had,
13 throw it in the shredder and start anew with a new
14 policy?

15 A Well, it depends on how updates are
16 presented.

17 Q Okay. Well, how is the FMLA updates
18 presented?

19 A I don't recall the exact, but if it were
20 changes to an existing policy, then I would update
21 that. If it were easily to do, if it were a whole
22 new, then I would discard the old and use the
23 current.

24 Q Well, would the new policy say this
25 replaces Policy 280.5 or something like that?

1 A Usually, yes.

2 Q Okay.

3 MR. GARRISON: John, do you mind if
4 we take a five-minute break?

5 MR. FRANKLIN: That's fine.

6 MR. GARRISON: Thanks.

7 (Whereupon, a recess was taken at
8 11:29 a.m. and resumed at 11:40 a.m.)

9 BY MR. FRANKLIN:

10 Q When you were at the University of Akron,
11 were you employed anywhere?

12 A Yes, I was.

13 Q Where were you employed?

14 A I was employed by Brown, Gertz & Hodge.

15 Q Doing what?

16 A I was a legal secretary.

17 Q What kind of law did they practice?

18 A They practiced -- they practiced domestic
19 relations, collections. That was pretty much it.

20 Q Did you work there full time or part time?

21 A Full time.

22 Q Who was your immediate supervisor?

23 A Bob Brown.

24 Q What was his position?

25 A He was an attorney there.

1 Q Okay. But did he hold --

2 A Partnership.

3 Q Was it a partnership, and he held --

4 A Yes.

5 Q Do you know what position he held? Was he
6 the managing partner?

7 A I think so.

8 Q What?

9 A I think so.

10 Q How long did you work there?

11 A Till 1985.

12 Q Then where were you employed?

13 A Then -- then I was employed by Aerospace.

14 Q Aerospace?

15 A A-E-R-O-S-P-A-C-E, Manufacturing.

16 Q Where were they located?

17 A They were in Maplewood, Ohio.

18 Q Why did you leave the law firm?

19 A We moved back to this side of the state.

20 Q You moved back to Maplewood?

21 A Back to Shelby, Auglaize County.

22 Q What did you do at Aerospace
23 Manufacturing?

24 A I did -- I did the government contracting
25 work.

1 Q You did the government contracting?

2 A I sold the parts to the government, to
3 DCASMA.

4 Q What was your position?

5 A I was -- I don't know what -- trying to
6 remember what my title was. I was just a
7 contracting agent, I guess.

8 Q Were you paid based on the contract?

9 A No. I was salary.

10 Q Who was your immediate supervisor?

11 A Would have been Patricia.

12 Q What's her last name?

13 A I don't remember her last name.

14 Q What's her title?

15 A She was the vice president of something,
16 but I don't remember what.

17 Q How long did you work there?

18 A From 1986 sometime until 1989.

19 Q Was Patricia your immediate supervisor for
20 the entire three years?

21 A Yes.

22 Q If you remember her last name in the
23 course of the deposition, will you tell me?

24 A Yeah.

25 Q Does Aerospace Manufacturing still exist

1 to your knowledge?

2 A I don't know.

3 Q Why did you leave there?

4 A I -- I was thinking of going into
5 insurance.

6 Q What does that mean, you were thinking of
7 going into insurance?

8 A I was -- I actually took a program and got
9 my insurance license.

10 Q Which license?

11 A Life, accident, and health.

12 Q What did you have to do to get your
13 license in life, accident, and health?

14 A I had to -- came to Columbus for four
15 weeks. Took some education. Then I sat for tests.

16 Q Did you pass the first time?

17 A Yes.

18 Q How long was the test?

19 A Couple hours maybe.

20 Q Did you know right then whether you passed
21 or not? Was it multiple choice?

22 A I did find out right away that I passed.

23 Q Was it multiple choice?

24 A I think so.

25 Q When you -- were you still working for

1 Aerospace when you sat for your test?

2 A No.

3 Q Did you have to be sponsored by a
4 particular agency in order to sit for the test?

5 A Yes.

6 Q Okay. How long were you looking for a job
7 when you were working for Aerospace?

8 A I don't recall. Not long.

9 Q Did you have the job with the insurance
10 company before you left Aerospace?

11 A Yes.

12 Q Which insurance company?

13 A Aon Corporation.

14 Q Aon?

15 A Aon.

16 Q Where were they located?

17 A Their main office is in Chicago.

18 Q Okay. Where was the office you worked out
19 of?

20 A It was in Lima.

21 Q Who did you work for in the Lima office?

22 A A good friend. Linda Sprenger.

23 Q Linda Sprenger?

24 A Uh-huh.

25 Q Yes?

1 A Yes.

2 Q You said she's a good friend. Why did you
3 add that?

4 A Because we're still friends today.

5 Q How were you paid? Was it commission?

6 A I was paid salary and commission both.

7 Q So it was salary plus commission?

8 A Yes.

9 Q What was Linda's position?

10 A Linda was my supervisor.

11 Q Okay. But what was her title?

12 A Regional manager.

13 Q Did she work out of the Lima office too?

14 A Yes.

15 Q How long did you hold that position?

16 A Approximately two years.

17 Q Then what position did you hold?

18 A Then I went to administrators to do my
19 internship and start that process.

20 Q Why did you leave the insurance field?

21 A Hmmm, recommendation of my parents, my
22 mother.

23 Q Your mom recommended that you leave the
24 insurance field and go into -- be an administrator?

25 A Yes.

1 Q What position did your mom hold? Has she
2 been an administrator?

3 A My mom just retired. She was a 52-year
4 diploma grad nurse and a director of nursing.

5 Q You said she was a diploma grad nurse,
6 what does that mean?

7 A She had a three-year diploma grad. She
8 wasn't a BS or an LPN. She was an RN diploma grad.

9 Q So she was an RN?

10 A Uh-huh. Yes.

11 Q And she was a DON somewhere?

12 A Yes.

13 Q Where at?

14 A Wapak Manor.

15 Q Did you work there at some point before
16 you worked for the insurance company?

17 A At Wapak Manor?

18 Q Yes.

19 A No.

20 Q Okay. So you go from regional manager,
21 did you start to work at Wapak Manor at that point?

22 A No. I sat for my administrator's
23 training. My mother was a DON at Wapak Manor.

24 Q Okay. Where was the training? You said
25 it was a nine-month --

1 A It was at IHS of Spring Creek at Huber
2 Heights.

3 Q IHS?

4 A Yes.

5 Q Of Spring Creek?

6 A Yes.

7 Q What did you add after that?

8 A What did I -- excuse me?

9 Q You said IHS at Spring Creek and then you
10 said something after that.

11 A In Huber Heights, Ohio.

12 Q Why was it there that you got your
13 nine-month internship? Did you know someone there?

14 A Yes. I got a recommendation from a friend
15 to apply there.

16 Q Okay. Did you have the recommendation
17 before you left the insurance company?

18 A I don't recall.

19 Q Did you resign from the insurance company?

20 A Yes.

21 Q Did you put the resignation in writing?

22 A I don't remember.

23 Q What reason did you give your friend Linda
24 for leaving?

25 A Better opportunity. I don't recall for

1 sure.

2 Q Did you tell her because your mom wanted
3 you to?

4 A I don't remember.

5 Q Okay. Who did you know at the Huber
6 Heights facility?

7 A I didn't know anyone there. I met with
8 someone that recommended that I go there.

9 Q Who was that?

10 A That was Dr. Yost.

11 Q Is he a medical doctor?

12 A I don't know what kind of doctor he is for
13 sure.

14 Q Well, I mean, was he -- does he practice
15 medicine? Is he a professor at a university? Has a
16 PhD?

17 A He is -- he is a senior executive with
18 Otterbein Homes. I don't know what his practice is.

19 Q How did you know Dr. Yost?

20 A My mother knew him.

21 Q And is that who you -- was that your
22 mentor for the nine months, Dr. Yost?

23 A No. I think he knew the administrator and
24 her name was Shirley Wing.

25 Q Shirley?

1 A Wing.

2 Q Okay. So Shirley was the person that
3 provided you with the nine months?

4 A Yes.

5 Q Okay. And you weren't paid?

6 A No.

7 Q When you leave the insurance company and
8 go to do this internship, did you apply for
9 unemployment?

10 A No.

11 Q Did you hold any paying job while you
12 worked at the Huber Heights facility?

13 A No.

14 Q Okay. At the end of the nine months, did
15 you apply for a position at the Huber Heights
16 facility?

17 A No.

18 Q Okay. So at the end of the nine months,
19 do you sit for the test?

20 A I can't recall if I went to the University
21 of North Carolina. I did on-line education during
22 the nine months. There's another part to the
23 program. And I made a trip to North Carolina, but I
24 don't remember if it was before or after the end of
25 the nine months.

1 Q Well, how long was the trip for?

2 A I was there for about a week maybe.

3 Q So did you attend classes for five days?

4 A I did testing and classwork, yes.

5 Q Was the testing for the state exam or the
6 federal exam that you told us about?

7 A No. It may have been related. It was to
8 complete my education, my core of knowledge
9 requirement.

10 Q Okay. So I mean, did you attend class at
11 the University of North Carolina remotely?

12 A Yes.

13 Q Was this for a particular certificate?

14 A Yes.

15 Q Okay. What's the certificate called?

16 A Core of knowledge.

17 Q After you get that core of knowledge, is
18 that when you sit for the state and federal tests?

19 A Yes.

20 Q Okay. How long does that process last?

21 During the nine months, are you taking the test, or
22 do the nine months have to run and then you take the
23 test?

24 A The nine months have to run before you can
25 test.

1 Q Okay. So how long is it until you can
2 become an administrator, until you became an
3 administrator? We'll take the nine months at Huber
4 Heights and then how many more months for testing
5 and to find out the results?

6 A Maybe 11 months total, right around there.

7 Q Okay. During that 11 months, did you work
8 anywhere that you were paid?

9 A No.

10 Q Well, it seems like the nine months runs
11 and then you take the test. Were you studying for
12 the test during the extra two months?

13 A Yes.

14 Q Is that when you went to North Carolina
15 after the nine months runs?

16 A I can't remember. I can't remember.

17 Q During the two months that you're
18 studying, you don't work anywhere?

19 A No.

20 Q Okay. Then are you looking for work?

21 A Yes.

22 Q Presuming that you're going to get your
23 license?

24 A Yes.

25 Q Okay. Are you interviewing?

1 A Yes.

2 Q Okay. So did you have a job lined up as
3 soon as you got your license?

4 A Yes.

5 Q Okay. Where did you have a job lined up?

6 A Heritage Manor.

7 Q Where's that located?

8 A Minster, Ohio.

9 Q Minster?

10 A Yes.

11 Q What position did you have lined up?

12 A Administrator.

13 Q Who is Heritage Manor owned by at that
14 time?

15 A At that time -- at that time, the owner
16 was Mrs. Semmelsberger.

17 Q Did she work at the facility?

18 A No.

19 Q Okay. How did you know she was the owner?

20 A I met her once.

21 Q Okay. Did she interview you for the
22 position?

23 A No.

24 Q Were you replacing an administrator?

25 A Yes.

1 Q Who were you replacing?

2 A First name was Ken.

3 Q Okay. Remember his last name?

4 A No, I don't.

5 Q Was Ken an interim administrator or was he
6 their full-time administrator?

7 A I don't know.

8 Q Why did Ken leave, if you know?

9 A Ken was, I think, moving to South
10 Carolina, maybe.

11 Q Did Ken help train you?

12 A Somewhat.

13 Q How long was he there when you were there?

14 A Maybe a week.

15 Q Did you have your license when you started
16 working there or did you start working there in
17 anticipation of your license?

18 A I didn't work until I had my license.

19 Q Okay. And Ken, did he work with you for
20 that first week?

21 A I think so.

22 Q Okay. Who actually hired you?

23 A I don't recall the gentleman's name.

24 Q Okay. What position did he hold?

25 A I think he was the regional person at the

1 time.

2 Q Did he hold some type of license, if you
3 know?

4 A I don't know for sure.

5 Q Was he on the clinical side or the
6 administrative side?

7 A He was the administrative side.

8 Q Was there a DON when you started working
9 there?

10 A Yes.

11 Q Who was that?

12 A Her name is Judy.

13 Q What's her last name?

14 A Last name is Poeppelman.

15 Q Poeppelman?

16 A Yeah, I think so. P-O-E-P-P-E-L-M-A-N, I
17 think.

18 Q Were you introduced to her before or after
19 you were hired?

20 A I don't remember.

21 Q How did you and Judy get along?

22 A Okay.

23 Q Okay. How long did you work there as an
24 administrator?

25 A I think it was like 1996.

1 Q Okay. So from what year to 1996?

2 A From -- I think it was from 1992.

3 Q To 1996?

4 A I think so.

5 Q Did you get yearly evaluations?

6 A I don't recall.

7 Q Who did you consider to be your immediate
8 supervisor?

9 A Probably would have been Joe Conte.

10 Q What was Joe's position?

11 A He was the regional person.

12 Q Is he the one that hired you?

13 A No.

14 Q Okay. Who hires you? What's his name?

15 A I don't remember his name. I think his
16 first name is Jim, but I don't remember his name.
17 But he wasn't there long.

18 Q Okay. But Jim was your supervisor to
19 begin with?

20 A Yeah, for a short time, I guess.

21 Q Okay. Then Joe became your supervisor?

22 A Yes.

23 Q So whoever held that regional position was
24 your supervisor?

25 A Yes.

1 Q How long was Joe your supervisor?

2 A Maybe three years.

3 Q Did you tell me you can't recall Joe's
4 last name?

5 A His last name is Conte. I do remember
6 Joe. C-O-N-T-E.

7 Q Then who replaces Joe?

8 A It was a woman. I don't remember her last
9 name.

10 Q What was her first name?

11 A Carolyn. Carol or Carolyn.

12 Q Did you have any other regional managers
13 before you leave?

14 A No.

15 Q Why did you leave there?

16 A I got a better offer.

17 Q Had you been looking for another place of
18 employment?

19 A I don't recall.

20 Q Well, who did the better offer come from?

21 A The better offer came from -- the better
22 offer came from Heartland.

23 Q Heartland?

24 A Heartland.

25 Q Did they have another title? Was it

1 Heartland Health Care, Home Care, something?

2 A It was HCR.

3 Q HCR Manor Care?

4 A I don't remember the manor care part. I
5 just remember it was the HCR.

6 Q Okay. Do you know where HCR's located?

7 A They're out of Toledo.

8 Q Okay. Who contacted you from HCR?

9 A I don't remember.

10 Q Had you applied to HCR?

11 A I must have.

12 Q Well, where were they asking you to go?

13 A To Piqua.

14 Q How far was that from your home?

15 A Oh, 25 miles.

16 Q Why was it a better job?

17 A It had better pay.

18 Q Better pay for an administrator?

19 A Yes.

20 Q Any other reason it was a better job?

21 A Bigger company.

22 Q HCR?

23 A Yes.

24 Q Why is a bigger company a better company
25 in your opinion?

1 A Well, it was more stable.

2 Q Was Heritage Manor not stable?

3 A It had -- it had a lot of owners. There
4 was a lot of conflict there between ownership and I
5 know we had a lot of maintenance issues, I recall,
6 that weren't being addressed.

7 Q How did the owner conflict affect you as
8 an administrator of the facility?

9 A Well, one would come in one week and tell
10 you, yes, on one issue, and then the other one would
11 come in the next week and there was a lot of
12 conflict there. There was not a clear path of
13 instruction.

14 Q And you thought if you went to Manor Care
15 that would resolve that issue?

16 A I don't know that I thought about it that
17 way.

18 Q I mean, isn't it true the only reason you
19 left was the pay was -- you were getting paid more?

20 A That was a big factor, yes.

21 Q Okay. Did you have any problems staffing
22 STNAs at Heritage Manor?

23 A I don't remember.

24 Q Who interviewed you from HCR?

25 A My regional director was Sherri Woods.

1 Q Okay. Is that who interviewed you?

2 A Yes.

3 Q How long was it between the interview and
4 the time you get the job?

5 A I don't remember.

6 Q Were they interviewing you for a
7 particular facility or just to be an administrator
8 with HCR?

9 A I don't remember when I found out where I
10 was going.

11 Q Okay.

12 A I don't remember if it was actually Piqua
13 or in general at the first interview.

14 Q Well, I mean were you applying for a
15 position in Piqua or were applying for a position
16 with HCR?

17 A I don't recall.

18 Q Do you resign from Heritage?

19 A Yes.

20 Q Put your resignation in writing?

21 A I don't recall.

22 Q How much notice did you give Heritage?

23 A I'm very good about giving 30 days, but I
24 don't recall if that was exact.

25 Q Well, why did you tell me you're very good

1 about giving 30 days?

2 A I try never to leave an employer.

3 Q Okay. But my question is how long did you
4 give Heritage before you started --

5 A I don't recall.

6 Q -- working?

7 A I don't recall.

8 Q And you don't recall if it was in writing?

9 A No.

10 Q Who did you give your resignation to,
11 whether it was verbally or orally -- verbally or in
12 writing?

13 A I don't recall.

14 Q Would you have gone above Sherri to give
15 your resignation?

16 A Probably not.

17 Q Okay. So where's the facility in Piqua
18 located? What's the address? What road?

19 A I don't remember the address. It's right
20 off of Route 36.

21 Q Was it a skilled facility or non-skilled?

22 A Skilled.

23 Q How many beds?

24 A It was licensed for a hundred beds.

25 Q How many was Heritage licensed for?

1 A It was 119.

2 Q Who was the DON when you started working
3 at Piqua?

4 A It was Barb.

5 Q What's her last name?

6 A Tremont, I think.

7 Q Tremont, you think?

8 A I think it's Tremont.

9 Q How long was Barb your DON?

10 A Barb was my DON for a year.

11 Q One year?

12 A Yeah.

13 Q How did you and Barb get along?

14 A Okay.

15 Q What does okay mean?

16 A We did our job and got along well, I
17 guess.

18 Q Got along well. Did you socialize with
19 Barb outside of work?

20 A No.

21 Q Who was your supervisor at that point?

22 A Sherri.

23 Q How long was she your supervisor?

24 A For a year.

25 Q Then what happens?

1 A What do you mean?

2 Q Well, did you stay in that position?

3 A No.

4 Q You left that position?

5 A Yes.

6 Q Did you go to work for another company?

7 A Yes.

8 Q So you left HCR?

9 A Yes.

10 Q Did you go to a company that was bigger
11 than HCR?

12 A I'm trying to remember where I went. Yes.

13 Q Where did you go?

14 A Not bigger, but bigger responsibility. I
15 went to Champaign Residential Services.

16 Q Champaign Residential Services. Why did
17 you leave after only one year?

18 A Better opportunity.

19 Q Well, had you applied for this position
20 with Champaign Residential Services?

21 A I did.

22 Q How long had you been looking for work
23 once you get hired by HCR?

24 A Probably for three to four months.

25 Q When you say better opportunity, are you

1 saying that basically you were going to get paid
2 more money?

3 A Yes.

4 Q I mean, was there something about the
5 Piqua position that you didn't like? It looks like
6 you worked there maybe eight months before you
7 started applying for other jobs?

8 A Yes.

9 Q What didn't you like about Piqua?

10 A Their staffing ratio was too low.

11 Q I'm sorry?

12 A Their staffing ratio was too low.

13 Q What does that mean?

14 A There weren't enough direct care staff in
15 relationship to the acuity of the patient.

16 Q When you say direct care, are you talking
17 about STNAs?

18 A And nurses.

19 Q LPNs or RNs?

20 A I don't recall which.

21 Q Well, were you -- did you make your
22 concerns known to anyone in HCR?

23 A Yes, I did.

24 Q Who did you make your concerns known to?

25 A Sherri.

1 Q Did you do that in writing?

2 A I don't remember.

3 Q Well, how often did you complain to Sherri
4 that you thought the staffing ratios were too low?

5 A I don't remember how often.

6 Q Well, I mean did you complain more than
7 once?

8 A Yes.

9 Q More than five times?

10 A I don't remember.

11 Q Okay. Did you ever go above Sherri's
12 reporting level and complain that the staffing
13 levels were too low --

14 A No.

15 Q -- in the direct care? Direct care is on
16 the clinical side?

17 A Yes.

18 Q Okay. So did you go to someone on the
19 clinical side and make complaints?

20 A Yes.

21 Q Okay. Who did you go to?

22 A I went to the regional nurse.

23 Q Who's that?

24 A I don't recall her name.

25 Q You went to her. What does that mean you

1 went to her?

2 A I talked with her when she was in the
3 building.

4 Q Okay. Face-to-face conversation?

5 A Yes.

6 Q Did you take notes of the conversation?

7 A No.

8 Q Okay. Put us in the conversation as best
9 you can recall.

10 A I recall telling her that the skilled unit
11 was too heavy, that there were people at risk of
12 choking, people at risk of falling out of bed. We
13 needed additional staffing.

14 Q Okay. What did she say?

15 A No.

16 Q Okay. No, because she didn't agree with
17 your assessment?

18 A Because that was the staffing pattern of
19 that company and all of the homes were handled the
20 same way.

21 Q So all of the manor care homes you
22 believed -- I mean, strike that. All of the HCR
23 homes you believe were handled that same way?

24 A That's what I was told.

25 Q Okay. By the nurse that you can't

1 remember her name?

2 A Correct.

3 Q But she was a regional nurse?

4 A Yes.

5 Q For what region?

6 A Whatever region the Piqua home is in.

7 Q Okay. Well, you worked there, what region
8 is it in?

9 A Don't remember what region it's called.

10 Q Did you ever receive any discipline when
11 you worked there?

12 A No.

13 Q Were you responsible for hiring STNAs?

14 A Yes.

15 Q Okay. Was that subject to some
16 limitation?

17 A Yes.

18 Q Okay. Was the limitation in writing?

19 A I don't recall.

20 Q How would you go about hiring STNAs when
21 you worked at Piqua?

22 A I don't recall specifics.

23 Q Was it -- did HCR provide you with some
24 type of advertising?

25 A Probably.

1 Q I mean, did they handle it?

2 A I don't recall exactly who handled it.

3 Q Well, when you worked at Piqua, do you
4 remember who from HCR was responsible for doing the
5 advertising for STNA positions?

6 A No.

7 Q When you were interviewing for other
8 positions outside of the Piqua HCR facility, were
9 you asked why you wanted to leave?

10 A I'm sorry. Can you repeat that again?

11 Q Yeah. When you were interviewing for
12 positions outside of the Piqua facility, were you
13 being asked why do you want to leave Piqua?

14 A Yes.

15 Q Did you say staffing ratio?

16 A Yes.

17 Q Okay. To how many interviewers did you
18 say staffing ratio?

19 A One.

20 Q Okay. Was that the only interview that
21 you had was for the Champaign Residential Services
22 job?

23 A To the best of my recall, yes.

24 Q Okay. When you resign from Piqua, do you
25 tell or write the reason that you're leaving is

1 staffing ratio?

2 A No, I don't think so.

3 Q Why not?

4 A I don't remember what I put in my
5 resignation, but I don't think it would have been
6 staffing.

7 Q But that was the truth? That's why you
8 were leaving?

9 A That was part of it.

10 Q That and money?

11 A Yes.

12 Q Anything else?

13 A It was a different type of opportunity I
14 was going to be going with.

15 Q How was it different?

16 A Instead of a nursing home facility, it was
17 an ICFMR and it was 14 group homes.

18 Q I'm sorry. It was what?

19 A It was an intermediate care facility.

20 Q ICNR?

21 A ICFMR.

22 Q ICFMR. Okay. What does that mean?

23 A That is an intermediate care facility for
24 mental retardation.

25 Q I mean, did you have to hold the same

1 administrator's license?

2 A It wasn't a requirement, no.

3 Q Okay. So then was it a step down?

4 A No.

5 Q I mean, you worked -- you did the nine
6 months of the internship and the two months of
7 testing and you went to North Carolina so you could
8 get your administrator's license?

9 A Uh-huh.

10 Q And you didn't even need it for this job?

11 A It was a different type of position. It
12 was a county administrator role.

13 Q As opposed to what?

14 A As opposed to a single-facility
15 management. It was multiple facilities.

16 Q Okay. Which county?

17 A Allen.

18 Q Allen County. Was the funding source the
19 county?

20 A No. It wasn't. It was -- actually,
21 partially it was and partially it was state and
22 federal. There was some county funds involved.

23 Q So state, federal, and county funds?

24 A Yes.

25 Q Any other funding source? No?

1 A Private pay.

2 Q Okay.

3 A Privately maybe.

4 Q So you're saying insurance covered some of
5 the costs or when you say private pay, you're
6 talking about an individual actually paying?

7 A An individual actually paying.

8 Q Okay. So what was your job there?

9 A I was the county administrator.

10 Q How many buildings did you have
11 responsibilities for?

12 A I had one 32-bed facility.

13 Q Okay.

14 A And 14 group homes.

15 Q How many people are in a group home?

16 A Four to seven.

17 Q Is there a DON?

18 A Yes.

19 Q Okay. Who was the DON?

20 A The DON was Judy.

21 Q What's Judy's last name?

22 A Ditto, D-I-T-T-O.

23 Q Had you two ever worked together before?

24 A No.

25 Q Okay. Where was she located? Same

1 building as you?

2 A Yes. Yes.

3 Q How did you get along with her?

4 A Fine.

5 Q How long did you hold that job?

6 A Seven or eight years.

7 Q Did you receive annual evaluations?

8 A I don't recall for sure.

9 Q Did you receive written evaluations?

10 A Yes.

11 Q Who would give you your evaluation? Who
12 was your supervisor?

13 A Mark.

14 Q He was your supervisor and gave you the
15 evaluation?

16 A Yes.

17 Q What was Mark's last name?

18 A Schlater, S-C-H-L-A-T-E-R.

19 Q What was his title?

20 A Regional manager.

21 Q What was the name of the facility? Like
22 if I want to write a letter, who do I write it to?

23 A You would write it to Champaign
24 Residential Services.

25 Q Were they affiliated with any particular

1 hospital?

2 A No.

3 Q Were they affiliated with anyone?

4 A No.

5 Q Who is the clientele?

6 A They were adults and children with mental
7 retardation.

8 Q Did you receive any discipline when you
9 worked there?

10 A No.

11 Q What agency oversees the facility, like
12 comes in and makes sure that, you know, census is
13 correct and they're being treated --

14 A Appropriately. There are two.

15 Q Okay.

16 A One is the Ohio Department of
17 Developmental Disabilities. The other one would be
18 the Ohio Department of Health.

19 Q How often did they come in and inspect?

20 A Usually within that same window of nine to
21 15 months.

22 Q What was -- did you receive any citations
23 during the seven or eight years you were --

24 A I'm sure. I know we did. I don't recall
25 anything specific.

1 Q As far as the Allen County facility, were
2 you the person highest in authority?

3 A Yes.

4 Q Were there STNAs that worked for that
5 facility, the 32-bed facility?

6 A The 32-bed facility? They weren't called
7 STNAs.

8 Q What were they called?

9 A They were called habilitation specialists.

10 Q Did they get -- have different testing or
11 they just have a different title or what?

12 A They don't require the two-week training
13 course and they receive on-the-job training.

14 Q Is an STNA and a CNA the same thing?

15 A I don't know about CNA. I think it's a
16 different description for a similar job title.

17 Q Okay. Do you know the difference?

18 A No.

19 Q Okay. Did -- was there certain staffing
20 ratios that had to be met when you had the Allen
21 County job?

22 A Yes.

23 Q The Champaign job?

24 A Yes.

25 Q Were those met?

1 A Yes.

2 Q Were you the person that would do the
3 hiring?

4 A At times.

5 Q What positions would you hire for?

6 A I think mainly department managers.

7 Q Okay. Other than Judy Ditto, did you have
8 any other DONs when you worked there?

9 A No other DONs while I worked there.

10 Q Okay. So Judy was the DON the entire
11 time?

12 A At the 32-bed facility.

13 Q Okay. Were there other DONs?

14 A There was another lady, an RN that worked
15 in the group homes.

16 Q When you say she worked in the group
17 homes, she would go from home to home and provide
18 medical care?

19 A She would go from home to home and provide
20 assessments and training.

21 Q Well, if her assessment indicated that
22 medical treatment was necessary, then what happens?
23 Does she provide the medical treatment or they go to
24 the hospital?

25 A Something simple, she would provide.

1 Anything advanced, it would be referred to either
2 home health or the hospital.

3 Q Was the RN the same RN during the entire
4 time you worked there?

5 A Yes.

6 Q Who was that?

7 A Her name is Claudia. Don't remember her
8 last name.

9 Q Okay. Did you provide the evaluation for
10 the DON --

11 A Yes.

12 Q -- or was that someone else? Who did the
13 DON answer to? Who was the direct supervisor of the
14 DON?

15 A I was a supervisor and so was the regional
16 corporate nurse.

17 Q I mean, did you have dotted-line
18 supervision and then the DON answers directly to the
19 regional nurse or was it the other way around?

20 A I don't think it was that formalized.

21 Q Okay. But you didn't have any type of --
22 strike that.

23 You didn't provide any type of evaluation
24 related to the DON's clinical skills, correct?

25 A Correct.

1 Q You and the DON got along for the seven or
2 eight years?

3 A Yes.

4 Q When was the last time you talked to her?

5 A Two, three years ago maybe.

6 Q Why did you leave there?

7 A I -- I left there to join another company
8 my brother started.

9 Q What company did your brother start?

10 A He purchased a Rain Soft distributorship.

11 Q A Rain Soft?

12 A Water treatment, yes.

13 Q What were you going to do there?

14 A I helped him with telemarketing. I helped
15 with sales, those types of things.

16 Q Did you maintain your administrator's
17 license during the seven or eight years you worked
18 for Champaign?

19 A Yes.

20 Q And that was by getting the continuing
21 education requirements and paying a fee?

22 A Yes.

23 Q Even though you didn't need it?

24 A The company took care of it.

25 Q Okay. And then when you join your

1 brother, do you still maintain your license?

2 A Yes.

3 Q How long do you work for your brother or
4 with your brother?

5 A I don't recall exactly. Maybe two years.

6 Q Why would you leave the job, the Champaign
7 job and go work with your brother?

8 A It was a lot more money.

9 Q Your brother offered you more money?

10 A Yes. And I had an ownership interest.

11 Q Did the two of you set up the company like
12 a partnership or LLC or --

13 A I don't think so.

14 Q What was the name of the company?

15 A It was -- I'm trying to recall. It was
16 Rain Soft products.

17 Q That was the name of the company, Rain
18 Soft products?

19 A No. It was Rain Soft product line. The
20 name of the company was Findlay Water Treatment.
21 It's been a while ago.

22 Q Was the company incorporated?

23 A Yes.

24 Q So it was Findlay Water Treatment, Inc.?

25 A I don't think they used the Inc.

1 Q But it was incorporated?

2 A Yes.

3 Q With the State of Ohio?

4 A I don't know where.

5 Q Were you an officer of the company?

6 A No.

7 Q Just an owner?

8 A I was -- I got a piece of the proceeds,
9 yes. I got a piece of the commission.

10 Q Well, if you were an owner, what percent
11 ownership did you have in the company?

12 A I don't remember that. I got a commission
13 reimbursement.

14 Q Okay. But you think just because you got
15 a commission that you were an owner of the company?

16 A We were working on that, but I don't -- I
17 don't know if it was ever finalized.

18 Q Well, did you have stock in the company?

19 A I don't know if it was ever completed.

20 Q What does that mean? You started to have
21 stock and then you don't know if you ever got it?

22 A They started to do that but I don't know
23 if they ever completed it or not.

24 Q Who is the "they"?

25 A It would have been my brother and his

1 significant other.

2 Q Was she an owner, too, significant other?

3 A I think so, yes.

4 Q What's her name?

5 A Her name is Pam.

6 Q What's her last name?

7 A Logan.

8 Q Okay. So the three of you owned the
9 company?

10 A That was the way it was planned to start,
11 yes.

12 Q And then was it a protected territory? In
13 other words, you guys were the only individuals
14 selling this product in that particular area?

15 A Yes.

16 Q And you worked there for two years?

17 A I think so. Somewhere right around there.

18 Q Did you have benefits?

19 A I think my husband had benefits during
20 that time.

21 Q That's not my question. I'm not going to
22 ask about your husband yet.

23 A Okay.

24 Q Did you have benefits when you worked for
25 the Findlay Water Treatment Company other than

1 compensation?

2 A I don't recall. I don't.

3 Q Was there a 401(k) set up?

4 A No, I don't think so.

5 Q Okay. Was there medical benefits
6 available?

7 A I don't recall.

8 Q Did you have a company car?

9 A No.

10 Q Company laptop?

11 A No.

12 Q Did you supervise any employees?

13 A No.

14 Q Were there any employees of the company
15 other than the three owners?

16 A There were telemarketers.

17 Q Okay. Full time?

18 A I don't recall.

19 Q Did they provide you with leads?

20 A Yes.

21 Q Were you paid W-2 income? Was it K-1
22 income? How were you paid? 1099 income?

23 A I think it was 1099.

24 Q Were you an independent contractor of some
25 type?

1 A I believe so.

2 Q Why did you leave there?

3 A I don't recall. Probably a better
4 opportunity came open.

5 Q Well, why would you leave -- the reason
6 you left Champaign --

7 A Oh.

8 Q -- was money?

9 A I do recall why we left there. They
10 separated and --

11 Q Who separated?

12 A My brother and his friend --

13 Q Significant other?

14 A -- separated and wanted to sell the
15 business. That was it.

16 Q Okay. Did you buy the business?

17 A No.

18 Q Did you sell your share of the business?

19 A No.

20 Q What happened to your share of the
21 business?

22 A I was paid out money and that was it.
23 There was no shares.

24 Q Well, somehow you got money from the sale,
25 correct?

1 A I made commission and I made a final
2 payment from the transaction of the --

3 Q Sale?

4 A -- of the end of the business or whatever.
5 Yes.

6 Q Well, did somebody buy the company?

7 A I don't know if they did or not.

8 Q Did the corporation come in and take the
9 company over?

10 A That might have been it. I don't know for
11 sure.

12 Q Is that because you weren't making the
13 numbers that the company required?

14 A No. Sales were very good. No, I think it
15 was more of a personal decision.

16 Q On your brother and significant other's
17 portion?

18 A Yes.

19 Q Okay. Did you end up making the money you
20 thought you were going to make when you left
21 Champaign?

22 A Not as much as I had hoped for, but I
23 remember doing very well.

24 Q Okay. So what years was that? Which two
25 year time period now are we talking about?

1 A Sometime between 2004 to 2000 and -- I
2 don't recall.

3 Q Was it '4 to '6?

4 A Let me think here. No. It was in the
5 1990s. It was from 1990 -- 1990 -- excuse me.

6 Q Was it 1997 to 2005?

7 A No. But it was like 1997 to 1999 maybe.

8 Q So you think it was only two years?

9 A Somewhere right around there, yes.

10 Q Where did you work next?

11 A After that, I went back to nursing home
12 and started in with, I believe -- let me think here.
13 I think HCF.

14 Q HC what?

15 A F. HCF.

16 Q What does that stand for?

17 A Health Care Facilities.

18 Q Where are they located?

19 A They're in Lima, Ohio.

20 Q Is this a temporary company or is this
21 like you go in and you work full time?

22 A This was a full time.

23 Q Okay.

24 A Trying to remember the exact --

25 Q Where were you placed?

1 A I started at a place called Shawnee Manor.

2 Q Shawnee Manor?

3 A Yes.

4 Q Where at?

5 A In Lima.

6 Q What was Shawnee Manor? Skilled?

7 A Skilled. Skilled nursing home, yes.

8 Q How many beds?

9 A A hundred and some. 124, I think.

10 Q Were you replacing an administrator that
11 had left or was this a newly opened facility?

12 A This was an older facility and I was
13 replacing a gentleman who was promoted to the
14 regional spot.

15 Q Who was that?

16 A His name was Scott. Last name is
17 Unverferth.

18 Q Unverferth.

19 A Unverferth -- U-N-V-E-R, ferth, F-E-R-T-H.

20 Q Was there a DON there?

21 A Yes, there was.

22 Q Who was that?

23 A Her name was Lori.

24 Q What's her last name?

25 A I don't remember her last name.

1 Q How long did you and Lori work together
2 when you were the administrator and she was the DON?

3 A Not -- maybe six, seven months.

4 Q How did the two of you get along?

5 A Okay.

6 Q Did you give her an evaluation while you
7 worked there?

8 A I don't remember.

9 Q Okay. How long did you hold that
10 position?

11 A Only a short while.

12 Q I don't know what that means.

13 A Maybe six, seven months.

14 Q Okay. The whole time you held that
15 position, Lori was the DON?

16 A I think so.

17 Q Okay. If you think of Lori's name in the
18 course of the deposition, will you tell me?

19 A Yes.

20 Q Why did you only work there six or seven
21 months?

22 A The facility that they owned that was
23 closer to my home came open and I transferred to
24 another one of their facilities, Wapak Manor.

25 Q That's where your mom worked?

1 A That was years ago that she worked there.
2 She doesn't work there presently, no.

3 Q She didn't work there when you came in?

4 A No.

5 Q So you were able just to transfer if you
6 wanted to transfer or did you have to give them
7 enough time to find a new administrator? How did it
8 work?

9 A I got a new start date at the new
10 facility. I don't know what happened.

11 Q Well, how long between the time you
12 request the transfer and the time you leave?

13 A I didn't request it. They asked me if I'd
14 like to and it might have been a month.

15 Q Who was the DON when you got there?

16 A I think it was Amy Kentner.

17 Q Was she there when you got there or did
18 you hire her?

19 A I think she was a nurse there.

20 Q Okay. Did you promote her?

21 A I think the company did.

22 Q Was there a DON in place when you got
23 there?

24 A Yes. I'm trying to remember her name.
25 Kat Klosterman, Katherine Klosterman. She was a DON

1 there as well.

2 Q Well, was she a DON first?

3 A I think Amy was first and then Kat.

4 Q Okay. So Amy was the DON when you first
5 got there? Yes?

6 A I think so. I can't recall.

7 Q Well, why did Amy cease being the DON and
8 Katherine become the DON?

9 A Amy was in her administrator's training
10 and got promoted to an administrator within the
11 company.

12 Q And then whose decision was it to put
13 Katherine in that position as DON?

14 A It was a joint decision between myself and
15 the corporate nurse, regional.

16 Q Joint and between you and the regional
17 nurse?

18 A Yes.

19 Q Is that what you're saying?

20 A Yes.

21 Q Who was the regional nurse?

22 A At that time, I think it was Diane.

23 Q What's Diane's last name?

24 A Bonifas, B-O-N-I-F-A-S.

25 Q Okay. So how long do you hold that

1 position?

2 A Five-and-a-half years.

3 Q From when to when?

4 A From 2002 to 2007 maybe. 2006.

5 Q Why did you leave?

6 A I got a call from somebody at Heritage
7 Manor that the administrator's position was opening
8 there.

9 Q Had you worked there before?

10 A Yes.

11 Q Who did you get the call from?

12 A I think it was maybe Kim somebody that
13 used to work there.

14 Q Ken?

15 A Kim.

16 Q Kim.

17 A Kim Burger I think was the name.

18 Q What was her title?

19 A I think she's a director of nursing.

20 Q Was she the DON when you worked there?

21 A No.

22 Q How did you know her?

23 A I hired her as a nurse.

24 Q Where at?

25 A At Heritage Manor.

1 Q Why did you leave Heritage Manor the first
2 time?

3 A The first time I left Heritage Manor, it
4 was to get a better opportunity.

5 Q I thought you told us it was owner
6 conflict?

7 A It was. There was that, too, but it was
8 mainly to get a better opportunity, to make more
9 money.

10 Q Okay. So was going back to Heritage a
11 better opportunity than you had at the prior -- the
12 job that you held at the time, the Wapak job?

13 A I went back to Heritage mainly because the
14 operating company was Tandem that had been the
15 Integrated Health before. So there -- the ownership
16 issue was still an issue, but there was a better,
17 stronger operating company there.

18 Q How did you know that?

19 A I don't recall if Kim told me or if I
20 investigated it on-line but I found that out.

21 Q Were they a publicly traded company?

22 A I don't know if they're publicly traded or
23 not.

24 Q Okay. So had you been looking for work
25 for a period of time before you got the call?

1 A No, not really.

2 Q Okay. So after you get the call, what do
3 you do?

4 A After I get the call, I met with the
5 regional person.

6 Q The regional administrative person?

7 A She was also the nurse, too, but yes.

8 Q So she was on both sides, clinical and
9 administrative?

10 A Yes. Yes.

11 Q Who was that?

12 A That was Nancy Johnson.

13 Q Okay.

14 A And I accepted the position.

15 Q Okay. Well, you interviewed with Nancy?

16 A Yes.

17 Q And then she offered you the position?

18 A I think I had to -- I had to go to Roanoke
19 and meet with Joe Conte again.

20 Q Roanoke, Virginia?

21 A Yes.

22 Q Is that where the company's based?

23 A Yes.

24 Q And you had to meet with Joe Conte again?

25 A Yes.

1 Q Did they ask you questions about why you
2 left the first time, why should they rehire you
3 given that you left the company?

4 A The first time was Integrated Health
5 Services, and they went out of business. So no, I
6 don't think they asked me that. I don't recall that
7 anyway.

8 Q Well, Joe was working at the time when you
9 left?

10 A He was a regional manager, yes.

11 Q He didn't ask you any questions about how
12 can I trust you not to leave?

13 A No.

14 Q You said you had to meet with him. Why?

15 A I don't know. I think it's just our
16 policy.

17 Q Okay. So did he offer you the job?

18 A I don't recall exactly who it was.

19 Q Did you contact by a letter?

20 A I don't remember.

21 Q So how long is it between the time you get
22 the phone call and the time you start working?

23 A I don't recall.

24 Q So you start as an administrator?

25 A Yes.

1 Q Who are you answering to?

2 A Nancy Johnson.

3 Q How long do you hold that job?

4 A I was there for maybe a year.

5 Q Did you get an evaluation when you worked
6 there?

7 A I don't recall.

8 Q Was there a DON turnover when you worked
9 there?

10 A I don't recall.

11 Q Was there ratio staffing concerns?

12 A I don't recall that.

13 Q Did you get any type of state survey
14 during the time you worked there this time?

15 A I don't recall.

16 Q Why did you leave?

17 A The owners sold the home to a gentleman
18 from Columbus. Vrable Health Care purchased it.

19 Q Okay.

20 A And Vrable had their own administrator.

21 Q Well, did you try to keep your job?

22 A No.

23 Q Were you offered some type of severance?

24 A I don't recall.

25 Q Did you attempt to keep working at

1 Heritage?

2 A No. I don't recall. I don't recall. No.

3 Q Did you attempt to work for Vrable at any
4 facility?

5 A No. I tried to call Al a couple times. I
6 did talk to Al a couple times for --

7 Q Who's Al?

8 A Vrable. I left a message for him and he
9 didn't return my call.

10 Q So when do you leave?

11 A I don't remember the exact date.

12 Q Well, give me the year, if you can
13 remember.

14 A 2007 or '8 --

15 Q Did you --

16 A -- I think.

17 Q -- apply for unemployment?

18 A No. I don't think so.

19 Q How long were you unemployed?

20 A I wasn't unemployed. I'm trying to
21 remember where I went next. I don't remember where.
22 I wasn't unemployed. I'm trying to recall where I
23 went after that. I don't remember. I can't
24 remember.

25 Q Did you go to HCF? Go back?

1 A HCF was between -- HCF was a six-year
2 period. HCF came after Heritage Manor. HCF was
3 first Shawnee and then Wapak.

4 Q Hold on. Do I have to go back and change
5 your testimony?

6 A Yes. Yes, you do. Sorry.

7 MR. GARRISON: That's okay.

8 Q After you leave Findlay Water Treatment,
9 where do you go?

10 A I believe then I went to Champaign
11 Residential Services.

12 Q Okay.

13 A I think. Yes.

14 Q Then where did you go from there?

15 A From there, the second time Heritage --
16 from there, I believe it was Heritage Manor.

17 Q Okay. And then from Heritage where?

18 A To Wapak -- or to Shawnee and then Wapak.

19 Q Okay. So at this point you're at HCF?

20 A Yes.

21 Q Which facility?

22 A Wapak.

23 Q How long are you there?

24 A Five years maybe.

25 Q Who is your DON for those five years?

1 A Amy Kentner and Katherine Klosterman.

2 Q Okay. Then after you leave there, is
3 that -- do you leave Wapak because it goes out of
4 business or somebody acquires it?

5 A No.

6 Q Why do you leave?

7 A Let's see here. Figuratively, I think --
8 I think I went from Wapak to St. Marys Living
9 Center. I'm trying to remember.

10 Q Did you go there directly?

11 A I'm trying to remember. I think so,
12 within 30 days maybe.

13 Q What position did you hire into?

14 A Administrator.

15 Q When was that?

16 A 2011, 2010. The end of 2010.

17 Q So how long did you work for HCF Wapak?

18 A From -- from like 2006 or '7 to 2010.

19 Q Why do you leave Wapak?

20 A Actually I was bored.

21 Q Why were you bored?

22 A I -- just like I wanted to change and do
23 something a little more challenging.

24 Q Because you'd worked there five years?

25 A I think that was -- yes.

1 Q I mean, is that the longest you've ever
2 held a job?

3 A No.

4 Q Okay. So how is it that you become
5 employed with St. Marys? Do you know someone there?

6 A I have a friend that works at the
7 hospital.

8 Q Which hospital?

9 A St. Marys Hospital.

10 Q Who is that?

11 A Sara Buscaca.

12 Q Spell her last name, please.

13 A B-U-S-C-A -- I think -- C-A.

14 Q Okay. What position does she hold?

15 A She is an administrator and a nurse.

16 Q She told you there was an opening?

17 A I found the opening. I started looking
18 and I found the opening and I called Sara to talk to
19 her about the facility.

20 Q Where did you find the opening?

21 A I don't remember exactly. One of the
22 on-line --

23 Q Did you fill out an application?

24 A Yes, I did.

25 Q Okay. Where did you fill out the

1 application? Was it on-line or did you go in?

2 A I don't remember.

3 Q Did you fill out the application and then
4 get an interview?

5 A I don't remember.

6 (Whereupon, Plaintiff's Exhibit 14
7 was marked for identification.)

8 Q Handing you what's been marked as
9 Plaintiff's Exhibit 14. Have you seen this document
10 prior to today?

11 A Yes.

12 Q For the record, what does this document
13 appear to be a copy of?

14 A My application.

15 Q The application that you filled out to
16 work for Essex Health Care, Atrium Living Centers?

17 A Yes.

18 Q Did you understand that they were owned by
19 Essex Health Care Corporation?

20 A Not at the time.

21 Q Do you have an understanding of that as we
22 sit here today?

23 A Yes.

24 Q Okay. Let's look at your application. Is
25 everything true and accurate to the best of your

1 knowledge?

2 A Yes.

3 Q Okay. I want to look at the second page
4 of Plaintiff's Exhibit 14. Well, first of all, does
5 your handwriting appear everywhere in this document?

6 A Yes.

7 Q Okay. Let's look at the second page of
8 Plaintiff's Exhibit 14. Under security data, you're
9 asked have you ever been convicted of a crime or
10 pleaded guilty or no contest to a crime. Do you see
11 that?

12 A Yes.

13 Q And the box yes is checked?

14 A Uh-huh.

15 Q Tell me about that.

16 A That's a mistake. I must -- I must have
17 misread it. I've never been convicted of a crime.

18 Q Well, did anyone at the company who
19 interviewed you ask you about answering that you've
20 been either convicted of a crime or pled guilty or
21 no contest to a crime?

22 A No.

23 Q Anybody ask you why you put yes there?

24 A No.

25 Q Okay. The next question says have you

1 ever been excluded, debarred, or otherwise
2 ineligible for participation in federal healthcare
3 programs, and you checked the box yes. Tell me
4 about that.

5 A I was in a hurry doing this. I don't
6 remember.

7 Q No. Just tell me, did you put the check
8 in the box?

9 A Yes.

10 Q Okay. Why did you put the check in the
11 box?

12 A I meant to check no and I checked yes
13 instead.

14 Q Well, did anyone from Atrium or Essex or
15 anyone ask you why you put yes to the question that
16 says have you ever been excluded, debarred, or
17 otherwise become ineligible for participation in
18 federal healthcare programs?

19 A No.

20 Q Okay. So you're saying for the two
21 questions in a row, you checked the wrong box; is
22 that fair?

23 A Yes.

24 Q Well, the first question is have you ever
25 lived in this state continuously for the past five

1 years and you checked yes. Is that a right answer?

2 A Yes.

3 Q Okay. So we have one right answer, two
4 wrongs, right --

5 A Right.

6 Q -- for that section? Okay. Now, let's
7 look at -- and we'll read from the bottom up. The
8 first job that you have listed is Aon Corp.?

9 A Uh-huh.

10 Q And that you worked there from 199 -- from
11 1988 to 1991, correct?

12 A Yes.

13 Q That's what you wrote?

14 A Yes.

15 Q And then you said your next job was at
16 Heritage Manor; is that true?

17 A Yes.

18 Q And that job was from when to when?

19 A 1992 to 1997.

20 Q Okay. Then the next job was what?

21 A Champaign Residential Services.

22 Q And you say you worked there from '97 to
23 2005, correct?

24 A Yes.

25 Q Is that true?

1 A Yes.

2 Q Then you have the next job as Tandem at
3 Heritage Manor from 2005 to 2006, correct?

4 A Yes.

5 Q And then you have HCF Wapak from 2007 to
6 the present; is that correct?

7 A Yes.

8 Q Where's the job that you had when you
9 worked with your brother and owned the company?

10 A Well, this is -- well, I think I included
11 it in here at some point but I didn't --

12 Q Okay. Where is it? Just tell me if it's
13 included.

14 A I'm trying to remember the exact years.
15 It was sometime between -- it was sometime around
16 Heritage Manor and Champaign Residential Services.

17 Q Is there some reason you failed to put
18 that on here?

19 A No.

20 Q You also, I believe, did not include the
21 HCR position when you worked for Heartland; is that
22 correct?

23 A That's correct.

24 Q Why didn't you include that position?

25 A I didn't remember it obviously at the time

1 I filled this out.

2 Q What years did you claim you worked at
3 Heartland?

4 A Sometime around 1994. Sometime between
5 1991 to 19 -- 1991, 1992.

6 Q I'm just trying to figure out where we put
7 that job in your employment experience. Is it
8 between Aon and Heritage Manor in Minster, Ohio?

9 A No. It would be between Heritage Manor
10 and Champaign Residential.

11 Q Okay. And for how long did you work for
12 Heritage -- I mean Heartland, I'm sorry.

13 A Like a year.

14 Q One year?

15 A Yes.

16 Q Are you claiming you just forgot about
17 that job?

18 A Yes.

19 Q Okay. So on the second page, I think the
20 things that aren't true are the two checked boxes in
21 the security page, correct? Security data section?

22 A Yes.

23 Q And then leaving out the Heartland
24 position and you left out the position where you
25 owned and worked for the company?

1 A Yes.

2 Q I think you said it was Findlay Water
3 Treatment or something to that effect?

4 A It was Total Water Solutions.

5 Q Okay. You remember the name now?

6 A Yes. Total Water Solutions. Thank you.

7 Q Did the person that interviewed you have
8 this document in front of them?

9 A I don't remember.

10 Q Okay. Who interviewed you?

11 A First it was Terry Schollmeier.

12 Q Okay. Do you know what position she
13 holds?

14 A Terry is a man. He was the administrator
15 at the time. I don't --

16 Q So he was the administrator before you?

17 A I think so.

18 Q Was he interim?

19 A Maybe.

20 Q I mean, do you know the -- do you know the
21 name of the administrator before you that didn't
22 hold the interim title?

23 A Yes. Yes.

24 Q Who is that?

25 A Matt Russellsburg.

1 Q I mean, did you know him before you
2 started working at St. Marys?

3 A I knew who he was. I didn't know him
4 personally.

5 Q How did you know who he was?

6 A We were at a meeting one time and he was
7 introduced.

8 Q Okay. Who did you work for at that point?

9 A I don't remember.

10 Q Okay. On the first page of this document,
11 you put that you were referred to Atrium by
12 CareerBuilder; do you see that?

13 A Yes.

14 Q Okay. Well, weren't you really referred
15 by the friend in the hospital?

16 A No. I think I had been looking and I
17 found it and I think I talked to her about the
18 facility.

19 Q Okay. At the time that you fill out this
20 document that we marked as Plaintiff's Exhibit 14,
21 were you employed by anyone?

22 A I don't remember.

23 Q Okay. It looks like you signed the
24 document on 11/23/10; is that fair?

25 A Yes.

1 Q Okay. When do you recall starting?

2 A Sometime at the end of that year.

3 Q After Christmas?

4 A I don't remember.

5 (Whereupon, Plaintiff's Exhibit 15
6 was marked for identification.)

7 Q Handing you what's been marked as
8 Plaintiff's Exhibit 15. You seen this document
9 prior to today?

10 A No.

11 Q Do you know what this document is?

12 A Yes.

13 Q What is it?

14 A It's an Ohio new hire reporting form.

15 Q Have you filled out this document with
16 other employees before?

17 A No.

18 Q All right. Do you see down at the bottom,
19 it says date of hire, 12/27/10?

20 A Yes.

21 Q Okay. Do you have any reason to disagree
22 that you were hired on December 27, 2010?

23 A No.

24 (Whereupon, Plaintiff's Exhibit 16
25 was marked for identification.)

1 Q Handing you what's been marked as
2 Plaintiff's Exhibit 16. If you could take a moment
3 to look at that document, please, and let me know
4 when you're finished.

5 A I'm finished.

6 Q Have you seen this document prior to
7 today?

8 A Yes.

9 Q For the record, what does this document
10 appear to be a copy of?

11 A A job description.

12 Q Okay. It's a job description for what
13 position?

14 A Administrator.

15 Q Okay. And that was the position that you
16 were hired for?

17 A Yes.

18 Q Okay. Then it says the position reports
19 to the director of operations; do you see that?

20 A Yes.

21 Q Who was the director of operations at the
22 time that you became employed?

23 A Paul Gustafson.

24 Q Okay. How long was he the director of
25 operations during your employment?

1 A I don't remember exactly.

2 Q More than six months?

3 A Probably right around there.

4 Q Six months. And then who became the
5 director of operations?

6 A Barry DeRossett.

7 Q If you can look with me to the last page
8 of the document. It says Page 7 of 6. Do you see
9 that? Very last page of the document.

10 A Yeah.

11 Q You would agree with me that it says Page
12 7 of 6?

13 A Yes.

14 Q Okay. Is that your signature on the
15 document?

16 A Yes.

17 Q Okay. And it's dated 1/4/2011; do you see
18 that?

19 A Yes.

20 Q Is that the date it was given to you?

21 A I don't remember.

22 Q Okay. When you hire into the position,
23 was there a DON in place?

24 A Yes.

25 Q Who was the DON?

1 A Jane Fiely.

2 Q Had you known Jane from working at any
3 other facility?

4 A No.

5 Q Okay. Did someone provide you any type of
6 on-the-job training when you started working?

7 A Terry did.

8 Q Terry?

9 A Uh-huh.

10 Q How long did Terry provide you on-the-job
11 training?

12 A Maybe a week.

13 Q Why did you want to work at St. Marys?

14 A I liked the community and I liked the
15 assisted living that the building offered.

16 Q You liked the community. Meaning the
17 community, the town it was in, or the community of
18 the buildings? I mean --

19 A The people in the community.

20 Q The people in the community?

21 A Yes.

22 Q Is that a community that you've lived in?

23 A No.

24 Q Okay. Well, how did you know you liked
25 the community?

1 A I know people that work there and live
2 there that are good people.

3 Q Okay. So this wasn't that you were
4 unemployed and needed a job and took the first thing
5 that came along?

6 A I was looking for another job at the time
7 this was offered.

8 Q What job were you looking for?

9 A I was looking for a different type of
10 opportunity.

11 Q Like what? Tell us.

12 A Possibly a continuing care community,
13 something with multiple levels of beds -- bed.

14 Q What's a continuing care facility?

15 A That's a type of facility that offers
16 multiple levels of care under one roof.

17 Q I mean, with the idea that someone
18 transitions or just new people are brought in and
19 put in the different levels?

20 A With the idea that people can transition
21 under one roof without having to leave the home.

22 Q I mean, had you interviewed for any
23 positions in that type of setting where there was
24 multiple levels?

25 A Just the DD services. We had multiple

1 levels of care in that system, but that was it.

2 Q DD services, I don't know what that means?

3 A Developmentally disabled, mental
4 retardation.

5 Q I mean, were you interviewing for that
6 type of position?

7 A No, actually. Actually I was interviewing
8 for a banking position when I saw St. Marys Living
9 Center.

10 Q What type of banking position?

11 A As a loan officer.

12 Q For a bank or a mortgage company or --

13 A For a bank.

14 Q What bank?

15 A Chase.

16 Q Did you put the developmental disabilities
17 job on your application? Which one is that?

18 A That was Champaign Residential Services.

19 Q Okay. Well, you indicated in the box the
20 reason for leaving that job is you went back to
21 senior health care, what does that mean?

22 A I left DD services and went back to
23 nursing home.

24 Q Okay. Why is it that you wanted to go
25 into banking?

1 A I don't -- I don't know that I want to. I
2 have a friend that had a position open and called me
3 to interview for it.

4 Q At Chase Bank?

5 A Uh-huh. Yes.

6 Q Did you interview for the position?

7 A Yeah.

8 Q Were you offered the position?

9 A No. At that point, St. Marys Living
10 Center came open and I decided to stay with what I
11 knew.

12 Q Okay. Do you regret that decision?

13 A No.

14 Q Okay. So when you hire into St. Marys,
15 are they leveled in any way or is it just one type
16 of facility?

17 A They're leveled.

18 Q They are leveled?

19 A Yes.

20 Q What are the different levels?

21 A They have 50 skilled beds and 15
22 intermediate -- or 15 assisted living.

23 Q Anything else? Just the --

24 A No.

25 Q So 65 altogether?

1 A Yes.

2 Q That seems like a lower number than you've
3 worked with in the past; is that true?

4 A I've had different sizes of buildings over
5 the years.

6 Q I mean, most of the buildings you told us,
7 except the DD position, I think had a hundred beds
8 or over a hundred beds; is that true?

9 A That's true.

10 Q Okay. Why did you want to go to a
11 facility that had like half of the beds that you
12 were used to?

13 A It was a nice location. I liked the
14 location. It's close to my home. Good community
15 and I felt like I had the support of people at the
16 hospital that I knew.

17 Q Why is the support of the hospital
18 important?

19 A Well, I think it's important when you want
20 to do business in the community that you have a good
21 relationship with the people that are going to be
22 referring you patients.

23 Q The hospital refers to you patients; is
24 that how it works?

25 A Yes.

1 Q Are the patients in the skilled and
2 assisted living, are they Medicare/Medicaid
3 patients, or are they private insurance? How does
4 that work?

5 A In the skilled side, they're both.

6 Q Okay. I mean, is there a percentage
7 typically or is the majority covered by Medicare and
8 Medicaid?

9 A I think the majority are covered by
10 Medicare and Medicaid. There's a few private pay
11 patients here in town.

12 Q Okay. What about in the assisted living
13 portion?

14 A Those were all private pay -- no, there
15 was a couple that were Medicaid.

16 Q Okay. Are the skilled and assisted living
17 rooms in the same building?

18 A They're in the same building, on opposite
19 ends of the building.

20 Q Okay. I mean, if I'm in the assisted
21 living portion, can I walk into the skilled
22 facility?

23 A Yes.

24 Q And vice versa?

25 A Yes.

1 Q Okay. As the administrator, did you have
2 supervisory authority over the DON?

3 A To an extent.

4 Q I don't understand that answer. What does
5 that mean "to an extent"?

6 A Well, my -- my authority over Jane or over
7 the DON was limited to day-to-day operations.

8 Q What does that mean?

9 A As far as making reminders or coaching
10 tips or work practices, daily work practices.

11 Q Okay. These daily reminders or coaching,
12 whatever you want to call them, did they have
13 anything to do with her clinical abilities, skills?

14 A Somewhat as far as filling out the AM
15 clinical board completely, making sure that resident
16 incident/accidents are followed up on timely.

17 Q Resident what?

18 A Incident and accident reports.

19 Q Are followed up timely?

20 A Followed up, yes.

21 Q I mean, do you provide any direct care to
22 any of the skilled residents, any residents on the
23 skilled side?

24 A Does the facility provide?

25 Q Do you, yourself, as an administrator?

1 A Do I? No.

2 Q Do you provide any type of services
3 personally to the individuals on the unskilled side,
4 the assisted living?

5 A Any skilled services to the assisted
6 living people?

7 Q Yeah. Do you provide any services to the
8 assisted living?

9 A Occasionally I would work as a hall
10 attendant once in a while.

11 Q Okay. During the time that you're the
12 administrator, are the 50 beds typically filled or
13 unfilled? Is there a certain number that you try to
14 maintain?

15 A We try to meet a percentage basis of
16 census. Usually 85 to 90 percent occupancy.

17 Q Were you typically able to do that from
18 the time you become the administrator till the time
19 you leave?

20 A Over a period of time, yes.

21 Q This -- you talked to me earlier about
22 gathering statements about Jane's work mannerism, I
23 think, in 2011 and 2012. Is that pursuant to some
24 type of policy or procedure? Because I read the
25 policy and procedure book and didn't see where

1 administrator goes out and collects statements and
2 then shares them with anyone? Is that something you
3 made up?

4 A I was asked to do coaching and mentoring
5 for Jane, and when I sat down to meet with her a
6 couple of different times over the years, she didn't
7 understand what the problems were.

8 Q Well, who asked you to do the coaching and
9 mentoring?

10 A My supervisor.

11 Q Well, who is that? Barry?

12 A Barry.

13 Q Because you had two supervisors, I
14 understand, and just so we're on the same page,
15 Barry asked you to do that; is that fair?

16 A Yes.

17 Q Okay.

18 A There --

19 Q Okay.

20 A Yes.

21 Q Did Barry ask you in writing? Something
22 we could look at to see his instructions?

23 A I don't recall.

24 Q Well, if he had put it in writing, would
25 you have saved it somewhere? Would it be on your

1 computer?

2 A It would be on my computer.

3 Q Okay. Did you search your computer for
4 any memos from Barry to you or you to Barry about
5 Jane?

6 A No.

7 Q Do you and Barry typically communicate by
8 phone or by computer?

9 A By phone.

10 Q Okay. Do you have the ability to tape
11 your phone calls?

12 A No.

13 Q You said over the years. Did he ask you
14 to do this more than twice?

15 A I can't put an exact number, maybe two,
16 three, four times.

17 Q Two, three, four? So somewhere between
18 two and four?

19 A Yeah.

20 Q In those two to four times, do you think
21 at least one time he communicated in writing?

22 A It's possible.

23 Q Okay. Did he tell you why he wanted you
24 to do this coaching, mentoring?

25 A No.

1 Q He didn't give you any indication it was
2 based on complaints he was receiving or anything to
3 that effect?

4 A I was getting complaints from the staff
5 and I approached Barry.

6 Q Okay. So you approached Barry?

7 A Yes.

8 Q Okay. And you approach him and say what?
9 Let's talk about -- you said it was two to four, so
10 let's start with the first time. When was that?

11 A I don't recall.

12 Q What month? What year?

13 A I don't recall.

14 Q Okay. Well, who approached you and what
15 did they say?

16 A As far as what again?

17 Q Who approached you and what did they say
18 that led you to go to Barry so you could end up
19 giving Jane this coaching or mentoring?

20 A I think the first I recall was -- the
21 first time I recall anything with Jane was with -- I
22 think it was with Shelby.

23 Q Okay. Just so the record's clear, when
24 you say I think it was with Shelby, are you saying
25 you know it was with Shelby --

1 A I'm not sure.

2 Q -- or you're guessing?

3 A I'm not sure. I'm not sure who it was.

4 Q Was there ever an incident with Shelby,
5 whether it was the first, second, third, or fourth?

6 A Yes.

7 Q Okay. What does Shelby do?

8 A She's an RN.

9 Q Okay. And what was she complaining about?

10 A She was complaining that Jane had yelled
11 at her and she had asked her to change a statement.

12 Q So she was complaining that her boss
13 yelled at her?

14 A She felt it was inappropriate and she felt
15 like she had been forced to make changes to her
16 statement.

17 Q Okay. Was Jane asking her to change the
18 wording of a statement that left the statement still
19 in tact as to what it was trying to convey?

20 A She was asking her to change the statement
21 to make it seem less behaviorally or clinically
22 complex.

23 Q Okay. Did it have to do with a patient
24 yelling?

25 A I would have to see the document.

1 Q Okay. Well, did you review that document
2 in preparation for your deposition today?

3 A Not in detail, no.

4 Q What does not in detail mean? You did
5 review the document, you just didn't read it in its
6 entirety?

7 A I read through it, but it was a lot of
8 verbiage back and forth and I don't recall the exact
9 details.

10 Q Okay. So did you go to Jane and talk to
11 Jane first or did you go to Barry?

12 A I don't recall.

13 Q Okay. Was there anything inappropriate
14 with Jane asking Shelby to modify the words that she
15 was using?

16 A I don't recall.

17 Q Well, I'm just saying whatever Shelby
18 wrote, is there some sort of scope of practice that
19 doesn't allow that to be changed?

20 A Can I see the copy of the document?

21 Q I'm just asking from your memory.

22 A It was -- it appeared to me to be
23 inappropriate at the time.

24 Q Do you still feel that way today?

25 A Yes.

1 Q Okay. So it was inappropriate at the time
2 and it's inappropriate as we sit here today?

3 A Yes.

4 Q Why do you think it's inappropriate? I
5 mean, is it against some rule or regulation?

6 A No. I felt it's inappropriate because
7 it's not good nursing practice.

8 Q Okay. Well, given all of your years as a
9 nurse?

10 A I'm not a nurse.

11 Q Okay. So what were you basing that it was
12 inappropriate nursing practice?

13 A I believe it's inappropriate to go behind
14 someone and change their verbiage.

15 Q Well, did she change the verbiage or did
16 she ask Shelby to change the verbiage?

17 A I don't recall which. I think she asked
18 Shelby to change the verbiage.

19 Q So that's not the same as her going behind
20 and changing it, right?

21 A Right.

22 Q And you don't recall if you went to Jane
23 first or you went to Barry first?

24 A No, I don't recall.

25 Q Okay. And then you sat down with Jane?

1 A Yes, I did.

2 Q And you discussed the situation?

3 A I told her what Shelby had said.

4 Q No. Did you tell her that Shelby came to
5 you and you went to Barry and that's why you were
6 having a conversation with her?

7 A I don't recall that --

8 Q Okay.

9 A -- much of the detail.

10 Q What did she say? Put us in the
11 conversation as best you can recall.

12 A I told Jane that Shelby had made this
13 accusation and that I asked her if it was true. I
14 think she denied doing anything inappropriate and
15 that was it that I recall. I told Shelby it
16 shouldn't happen again and to continue to monitor
17 it.

18 Q Continue to monitor what?

19 A To see if there's changes in incident
20 reports or witness statements.

21 Q Okay. Well, was it an incident report or
22 a witness statement?

23 A I believe it was some type of a behavioral
24 documentation report.

25 Q Okay. And was -- you're telling me that

1 Jane didn't change it. She asked Shelby to change
2 it, right?

3 A I believe Shelby felt that she had to
4 change it based on Jane's approach.

5 Q Okay. You think Shelby felt. Describe
6 the feelings.

7 A I think Jane was yelling at Shelby and
8 I believe that Shelby changed it under duress. My
9 impression is she felt she had to do what Jane
10 asked.

11 Q Okay. Did you witness any of this?

12 A No.

13 Q Did Shelby say that she changed it under
14 duress?

15 A I believe that was her -- that's my
16 impression of her conversation.

17 MR. FRANKLIN: Okay. Why don't we
18 take like five minutes.

19 MR. GARRISON: Okay.

20 (Whereupon, a recess was taken at
21 1:42 p.m. and resumed at 1:53 p.m.)

22 BY MR. FRANKLIN:

23 Q The incident with Shelby, I'm not sure if
24 we put it one, two, three, four. Do you remember
25 any other incidents?

1 A I remember the incident with Amanda at the
2 nurses' station.

3 Q At the nurses' station?

4 A Yes.

5 Q Okay. What was the incident?

6 A Amanda stated that Jane yelled at her
7 because a med count was off.

8 Q What's a med count?

9 A It's a med -- it's the transition between
10 nurses at the end of their shift and they count
11 their -- I think they just count the narcotics.

12 Q The Schedule II?

13 A And whatever other schedule it might be.

14 Q You don't have any Schedule I narcotics
15 there?

16 A I don't know. Don't recall.

17 Q So they do a count of the narcotics?

18 A Yes.

19 Q And if the count's off, what does that
20 mean?

21 A It can mean a variety of things.

22 Q I mean, is it important?

23 A Yes.

24 Q I mean, could the count being off mean
25 someone got maybe too many narcotics?

1 A That's a possibility.

2 Q Could be that an employee took narcotics?

3 A It could be.

4 Q Could be a resident took narcotics?

5 A Could be.

6 Q Could be resident's family took narcotics?

7 A Could be.

8 Q Could be it just wasn't counted right?

9 A Could be.

10 Q Okay. There are lots of reasons that the
11 med count could be off, right?

12 A Yes.

13 Q Did you witness Jane yell at Amanda?

14 A No.

15 Q Okay. Did anyone witness Jane yell at
16 Amanda?

17 A I don't recall. I think there was someone
18 there. I don't recall who it was.

19 Q Well, did you get a statement from that
20 person?

21 A I got a statement, I think, from Amanda.

22 Q Okay. But did you get a statement from
23 the witness?

24 A A verbal statement, I believe. I think it
25 might have been from a lady named -- I don't recall.

1 Q Okay. From a lady that you don't recall a
2 verbal statement?

3 A I'd have to see the document.

4 Q Okay. Well, if it was a verbal statement,
5 there wouldn't be a document, would there?

6 A I'm not sure if the time that -- I'm not
7 sure if the two times that were reported were
8 related or not. If it's the same incident, I can't
9 recall for sure.

10 Q Okay. Did you ask the person that gave
11 you the verbal statement to give you a written
12 statement?

13 A No.

14 Q Okay. So Jane yelled at Amanda, like, for
15 how long?

16 A I'd have to see the report.

17 Q I mean, did you get a sense it was an
18 hour, half an hour, five minutes, 30 seconds?

19 A I got an impression it was significant and
20 then it -- and that it was done in front of others.

21 Q You got that feeling from what, Amanda
22 telling you that?

23 A Yes.

24 Q So you sat down with Jane?

25 A I don't recall.

1 Q Did you go to Barry?

2 A I don't recall.

3 Q Well, the incident when you're coaching
4 and mentoring, wouldn't that imply that you talked
5 to Jane?

6 A That would imply that I did.

7 Q Okay. Do you recall what Jane said, if
8 anything?

9 A No, I don't.

10 Q I mean, did she give you a different side?
11 Did she say I didn't yell at her; I might have
12 raised my voice a little bit?

13 A I don't recall what her --

14 Q Okay.

15 A -- response was.

16 Q Okay. These incidents happened in '11
17 and '12?

18 A I have to see the report.

19 Q Okay. In all of the other incidents, was
20 there ever an allegation that Jane had touched the
21 person in any way?

22 A No.

23 Q Okay.

24 A Not that I recall.

25 Q When you say not that I recall, isn't that

1 something you would remember?

2 A There was a lot.

3 MR. FRANKLIN: Can you read back my
4 question, please.

5 (Whereupon, the court reporter read
6 back the previous question.)

7 A I believe so.

8 Q Okay. In your working environment in the
9 facility, are you testifying that people never get
10 upset and yell at each other?

11 A No.

12 Q No, they don't, or no, it does happen?

13 A I believe it does happen.

14 Q And when it happens, are people coached?

15 A Yes.

16 Q I mean, do you ever raise your voice when
17 you're upset with any of the -- your employees?

18 A No.

19 Q Okay. So anyone that would testify to
20 that would be lying, correct?

21 A No, I don't raise my voice to the best of
22 my recall.

23 Q So you may raise your voice, you just
24 don't remember?

25 A I don't remember ever raising my voice to

1 anyone.

2 Q Okay. Has anyone ever raised their voice
3 to you?

4 A Yes.

5 Q Okay. Whose raised their voice to you?

6 A Employees over the years have raised their
7 voices.

8 Q Okay. Has anyone above your reporting
9 level ever raised their voice to you when they were
10 upset with something you've done?

11 A Not that I recall.

12 Q How did you and Jane get along in 2010,
13 2011, 2012? Good working relationship? Bad?

14 A Jane and I really didn't have a
15 relationship.

16 Q Okay. What does that mean?

17 A We didn't work closely together.

18 Q Well, is it typical in your business that
19 the administrator and the DON would work closely
20 together?

21 A Not always, no.

22 Q I mean, aren't you doing the
23 administrative side of the business and the DON does
24 the clinical side of the business?

25 A Yes.

1 Q Okay. Did anyone ever complain about
2 Jane's clinical skills?

3 A Yes.

4 Q Okay. Who would complain about Jane's
5 clinical skills?

6 A Other nurses.

7 Q Okay. Who are these other nurses? What
8 are their names?

9 A Gabby.

10 Q Gabby. What's Gabby's last name?

11 A I think Chavarria or Chavarria.

12 Q Can you just spell it for the record?

13 A C-H-A-V-A-R-R-I-A, I think.

14 Q Okay. How many times did she complain
15 about Jane's clinical skills?

16 A Constantly.

17 Q Okay. Did you then report that to Barry?

18 A Yes.

19 Q Okay. To your knowledge, did he
20 investigate?

21 A I don't know.

22 Q Was there a particular clinical skill that
23 Gabby was complaining about or did she just complain
24 overall about Jane's clinical skills?

25 A I can't recall a lot of specifics. It was

1 a frequent occurrence.

2 Q Okay. It was a frequent and you can't
3 remember a lot of. Just give us like one or two
4 examples.

5 A Incident report completion.

6 Q Incident report completion.

7 A The --

8 Q Well, hold on. What does that mean? I'm
9 sorry, I don't work in that field.

10 A It means that when there's an incident
11 that the intervention gets put in place timely and
12 correctly and followed up.

13 Q Okay. So when there's an incident, the
14 report is timely?

15 A The follow-up to the incident, the
16 corrective action is made timely.

17 Q Okay. Give me an example of what Gabby
18 complained of.

19 A If there was a medication change and the
20 medication needed to be ordered or preauthorized or
21 written on the MAR, it wasn't done.

22 Q Was that something that Gabby could have
23 done or is that something only the DON can do?

24 A That's something that everybody can do,
25 all the nurses can do.

1 Q Well, then, instead of complaining, why
2 didn't Gabby just do it?

3 A She did do it.

4 Q Okay. So isn't that part of her job?

5 A It could be.

6 MR. FRANKLIN: Browns tonight.

7 MR. GARRISON: We're in Ohio, I
8 guess.

9 MR. FRANKLIN: Thank you, Jane.

10 (Whereupon, a discussion was held off
11 the record.)

12 BY MR. FRANKLIN:

13 Q So Gabby would just do it?

14 A Yes.

15 Q That's part of her job, right?

16 A It could have been considered part of her
17 job as well.

18 Q So she was complaining that Jane wasn't
19 doing something that was part of her job?

20 A The -- I think the overall impression is
21 that the things that Jane agreed to do or that were
22 a part of the DON position were not being done
23 timely or accurately.

24 Q Okay. What position did Gabby hold?

25 A Gabby was -- I think was the interim

1 manager.

2 Q Is she an RN, LPN?

3 A She's an LPN.

4 Q Okay. What position did Jane hold other
5 than DON? Is she an LPN or RN?

6 A Jane's an RN.

7 Q Okay. Well, I mean, did Gabby complain to
8 your knowledge to the Ohio Board of Nursing, for
9 instance, of any of Jane's alleged clinical
10 deficiencies?

11 A Not that I'm aware of.

12 Q I mean, at any point did it dawn on you
13 that you had an LPN complaining about their RN DON?

14 A Yes.

15 Q I mean, did it come -- did you -- did the
16 thought process go through your head that maybe
17 Gabby's just complaining to complain?

18 A The biggest portion of her complaints were
19 personality-based issues.

20 Q Okay. But I think we were talking about
21 clinical complaints.

22 A Clinical, correct.

23 Q I mean, did a resident ever complain about
24 Jane's clinical abilities?

25 A I can't recall clinical from a resident.

1 Q Okay. Did a resident's family ever
2 complain about Jane's clinical skills?

3 A They complained about her management
4 skills.

5 Q Does that have to do anything with the
6 clinical side? I know you want to tell me about her
7 management side.

8 A Not that I can recall an actual clinical
9 issue, but Jane wasn't a clinical person.

10 Q Okay.

11 A Okay.

12 Q If Jane was doing something outside of her
13 scope of practice or acting in a negligent manner
14 with regard to providing any type of medical
15 treatment to a resident, that could and should be
16 reported to the Ohio Board of Nursing, correct?

17 A Correct.

18 Q I mean, did you ever make any complaint to
19 the Ohio Board of Nursing with respect to Jane's
20 clinical skills?

21 A No.

22 Q All right. Where you work now, do you
23 have a DON?

24 A Yes.

25 Q Are you advertising for a DON?

1 A Yes.

2 Q Why? Is your DON leaving?

3 A Our DON has left.

4 Q Why did your -- I thought that you told me
5 that you have a DON. Maybe I asked the question
6 wrong. Is there currently a DON in a position?

7 A Yes. We have an interim DON in the
8 position.

9 Q What happened to the prior DON?

10 A She resigned.

11 Q Okay. Did she resign when you came on
12 board?

13 A Three months later, yes.

14 Q Okay. Any reason related to you that she
15 resigned?

16 A No. She resigned to raise -- she has a
17 six-month-old child.

18 Q Is that what she told you?

19 A Yes.

20 Q So the position's been filled. Is the
21 position currently being filled by interims?

22 A Yes.

23 Q Is it one interim DON or have there been
24 several?

25 A Just one.

1 Q Okay. Who is that?

2 A Her name is Melissa Mills.

3 Q Has she applied for the position?

4 A No.

5 Q Do you know why not?

6 A She prefers to stay in her MDS role.

7 Q Do you know if it has anything to do with
8 you and your personality as to why she doesn't want
9 the position permanently?

10 A I can't speculate. That's what she told
11 me.

12 Q Did you ever give Jane any type of formal
13 discipline?

14 A I believe I did one write-up once for --

15 Q For what?

16 A I think it was for going over labor hours.

17 Q What does going over labor hours mean?

18 A Just that the labor hours were very
19 significantly over budget in that two-week cycle.

20 Q In a two-week cycle?

21 A Over budget in that two-week period.

22 Q Was there a reason for that?

23 A I don't recall anything specific.

24 Q Did you and Jane work well together in the
25 sense of running the facility? I mean, didn't you

1 guys get the bronze award?

2 A Yes. We did.

3 Q Okay. Do you just simply point to
4 yourself as the person that was responsible for
5 that?

6 A Only from the standpoint that I wrote
7 99 percent of it.

8 Q Only from the standpoint you wrote
9 99 percent of it. What does that mean?

10 A Only that I drafted the document, that's
11 all.

12 Q What do you mean you drafted the document?

13 A Jane and I started to create it, and then
14 I finished it.

15 Q No. What document are you talking about?

16 A It's an application.

17 Q Okay. So it's an application based on
18 what's going on at the facility?

19 A Yes.

20 Q Okay. So the what's going on at the
21 facility has to do with both the administrative and
22 the clinical side, correct?

23 A Exactly.

24 Q I mean, you drafted the application --

25 A Yes.

1 Q -- based on what you were witnessing?

2 A Yes.

3 Q So you think simply because you drafted
4 the application and did apparently 99 percent of it
5 that you're responsible for the bronze award?

6 A No.

7 Q Not the individuals that were actually
8 doing the work?

9 A No. I don't feel like I'm solely
10 responsible for that, no.

11 (Whereupon, Plaintiff's Exhibit 17
12 was marked for identification.)

13 Q Handing you what's been marked as
14 Plaintiff's Exhibit 17. Have you seen this document
15 prior to today?

16 A Yes.

17 Q And for the record, what does this
18 document appear to be a copy of?

19 A It's a picture of Barry, Jane, and myself
20 and the bronze award.

21 Q In your hands?

22 A Yes.

23 Q What is the bronze award?

24 A It's an entry level quality award from the
25 American Health Care Association.

1 Q And when you say quality, what's that
2 based on?

3 A That particular award was based on the
4 facility's desire to build a quality system in
5 house.

6 Q It's based on the facility's desire to
7 what?

8 A It's based on the company -- or the
9 facility's initiative to work toward inputting a
10 quality system.

11 Q Okay. So I think you told me earlier in
12 order to get the gold, you had to get the silver,
13 right?

14 A Yes.

15 Q And in order to get the silver, do you
16 have to get the bronze?

17 A Yes.

18 Q Did you give Jane any evaluations while
19 she worked there?

20 A I think so.

21 Q Okay.

22 MR. FRANKLIN: Did you bring your
23 set?

24 MR. GARRISON: No. We'll share.
25 Appreciate it.

1 Q Handing you what was previously marked as
2 Defendants' Exhibit N, if you could take a moment to
3 look at that, please. Have you seen this document
4 prior to today?

5 A Yes.

6 Q For the record, what does this document
7 appear to be a copy of?

8 A This is a performance evaluation for Jane.

9 Q Okay. Was it conducted by you?

10 A Yes.

11 Q Okay. Is that your signature on the
12 second page?

13 A Yes.

14 Q I mean, do you have some reason to doubt
15 that this is an evaluation that you gave to Jane?

16 A No. It's just that I'd only been there
17 for like a month and a half and I think I was -- I
18 don't recall this exact -- it's been too long ago,
19 but I'm sure I did it, so -- I see my signature on
20 here so --

21 Q I mean if you have some reason to doubt,
22 just let us know on the record.

23 A Okay. No, I don't have no doubt.

24 Q Okay. I mean, it's your -- does your
25 handwriting appear anywhere on this document?

1 A That's my signature, yes.

2 Q Okay. There was a section that you could
3 have written anything under the supplementary
4 remarks; do you see that?

5 A Yes.

6 Q You chose not to?

7 A Yes.

8 Q Okay. Under -- there's a punctuality and
9 attendance, it says the employee was late, dash,
10 tardy and then there's the word salary; did you
11 write that?

12 A No.

13 Q Okay. Do you have any reason to doubt you
14 signed this on February 11th, 2011?

15 A No.

16 Q It looks like you sent this -- strike
17 that. Do you see the words at the bottom of the
18 first page that says sent to Susan and then there's
19 a date?

20 A Yes.

21 Q Is that your handwriting?

22 A No.

23 Q Whose handwriting is that, if you know?

24 A It looks like our HR director, Claudette.

25 Q Claudette?

1 A Yes.

2 Q Are you saying that Claudette is a
3 full-time HR director?

4 A She's full time. She does other things as
5 well besides HR.

6 Q Okay. But are you saying she's the
7 full-time HR director?

8 A Yes.

9 Q Since when?

10 A Since I started there.

11 Q Do you know who Bob Huenefeld is?

12 A Bob is our regional HR director.

13 Q Would he know better than you as to what
14 position Claudette held?

15 A Probably.

16 Q Handing you what was previously marked as
17 Defendants' Exhibit O. Have you seen this document
18 prior to today?

19 A Yes.

20 Q For the record, what does this document
21 appear to be a copy of?

22 A Appears to be a performance evaluation for
23 Jane.

24 Q Okay. Is that your signature on Page 2,
25 Bates stamped 225?

1 A Yes.

2 Q Okay. Does your handwriting appear
3 anywhere else on the document?

4 A Just the check marks in the box.

5 Q And you checked the box commendable; is
6 that fair?

7 A Yes.

8 Q Handing you what was previously marked as
9 Defendants' Exhibit P. Have you seen what we've
10 marked as Defendants' Exhibit P prior to today?

11 A Yes.

12 Q And for the record, what does Defendants'
13 Exhibit P appear to be a copy of?

14 A Performance evaluation for Jane.

15 Q Okay. Covering what time period?

16 A The date of review here was February 7th
17 of 2013.

18 Q Okay. So what time period does the review
19 cover?

20 A Would have covered the time period from
21 the end of the last eval. to February of 2013.

22 Q Okay. So this covers a one-year time
23 period approximately?

24 A Approximately.

25 Q So that's approximately 2012?

1 A Uh-huh.

2 Q Up until --

3 A Yes.

4 Q -- February 7th, 2013?

5 A Yes.

6 Q Okay. Does your handwriting appear
7 anywhere on the first page?

8 A Yes. At the top.

9 Q Okay. Which portion -- where's your
10 handwriting appear?

11 A Right here. The top of this form.

12 Q Okay. All of the writing is yours?

13 A Yes.

14 Q Okay. Let's look at the second page.
15 Where's your handwriting appear, if it does?

16 A I think it's the whole page except I'm not
17 sure about Number 1, if that's mine or not at the
18 top.

19 Q Okay. Well, can you read into the record
20 what you wrote in the second box of Number 1?
21 That's your handwriting?

22 A Yes.

23 Q Not the goals and accomplishments, but
24 where it says performance factors?

25 A Yes.

1 Q Okay. What did you write?

2 A In Number 2?

3 Q Yeah -- no, Number 1.

4 A Number 1. Good knowledge of basic
5 systems.

6 Q Okay. Then what did you write in Number
7 3?

8 A Needs to improve. Will help by having
9 nursing stations separated.

10 Q What's the word after separated?

11 A Separated now.

12 Q Okay. What did that mean?

13 A It was the hope that communication and
14 employee relations would improve once we broke the
15 nursing stations into two separate areas of the
16 building.

17 Q Okay. Why was that a thought? Why was
18 there a thought that breaking the nursing stations
19 up would provide for better employee communication?

20 A One, it would give an opportunity for Jane
21 to have more privacy in disciplining or talking to
22 people and it would give maybe more focus to the
23 nurses. They wouldn't have so much noise or
24 interruptions into their --

25 Q What do you mean more privacy to Jane when

1 she's disciplining?

2 A Well, the way the facility was structured,
3 there was one nurse at one station, the other nurse
4 at the other, and Jane could go into those areas
5 without another nurse being right there.

6 Q Okay. Well, that's -- that was the
7 thought process if the areas were broken up?

8 A And to make it more efficient for the
9 nursing staff, yes.

10 Q Did that ever happen?

11 A As far as did we break them into two?

12 Q Yeah.

13 A Yes.

14 Q Okay. When did that happen?

15 A I don't remember. Sometime maybe --

16 Q Was it after Jane left?

17 A No. Maybe in the middle to early part of
18 2013.

19 Q Okay. Well, at the time that this
20 document was written, let's say February 7th, 2013,
21 around that time period, were the nurses' stations
22 separated at that point? 'Cause this seems to say
23 we're going to do it.

24 A I can't exactly say, but it probably
25 happened sometime close to this date.

1 Q Okay.

2 A Either before or after this date. It was
3 probably close around this time.

4 Q Okay. What did you write in Number 4?

5 A Communication good. Circulates memos.
6 Documentation good.

7 Q Okay. There's like a rating system, what
8 was it, one through four, one through five? What
9 was it, if you know?

10 A One through five on the front.

11 Q Okay. What did you write under Number 5?

12 A Jane has shown marked improvement in
13 resident and staff relations.

14 Q Okay. And you gave her a 3.5?

15 A Yes.

16 Q What did you write in Number 7?

17 A Has been educated. Labor hours needs to
18 help, something, nursing staff accountable to leave
19 on time -- hold nursing staff accountable to leave
20 on time.

21 Q Okay. Has been -- start over again.

22 A Has been --

23 Q Has been educated in labor hours.

24 A Hours.

25 Q Needs to help, what's that word?

1 A Hold.

2 Q Hold?

3 A -- nursing staff accountable to leave on
4 time.

5 Q Was there some type of problem with the
6 nurses staying too long after their shift?

7 A Yes.

8 Q And they hadn't clocked out yet, is that
9 the problem?

10 A That, among other things, yes.

11 Q Okay. Well, I'm trying to figure out what
12 this means, has been educated in labor hours, needs
13 to help hold nursing staff accountable to leave on
14 time. Were they not leaving on time?

15 A They were working unapproved overtime and
16 taking too long to complete admissions and not
17 getting approval from Jane ahead of time.

18 Q Taking too long to do admissions, what
19 does that mean?

20 A Instead of passing the admission process
21 on to the incoming nurse, they were staying and
22 finishing the admission on their own.

23 Q But isn't that more expedient so they
24 didn't have to explain to the oncoming nurse
25 everything that they had already done by way of

1 admitting the patient?

2 A You would think so, but not. Because when
3 you do an admission, you do the complete forms.
4 There's certain assessments that are completed in
5 certain time ranges, and then once the nurse
6 completes those basic assessments, I can pass it off
7 to the next nurse, and she can start on a new
8 assessment process. So to have unapproved overtime
9 is not acceptable.

10 Q Looking at the third page, is your
11 handwriting anywhere on this page?

12 A Yes.

13 Q Okay. Where is your handwriting?

14 A At the top.

15 Q Where it says please review nurses' notes
16 daily?

17 A Yes. Yes.

18 Q Work to improve labor?

19 A Yes.

20 Q Is that a question mark or -- see
21 attached. Did you attach something to this?

22 A I don't recall if I did or didn't. Work
23 to improve labor management.

24 Q What's that other -- what's the other
25 words?

1 A That's my initial and last name.

2 Q Why did you initial that box?

3 A I don't know.

4 Q Okay. Then your handwriting is also on
5 new goals?

6 A These are Jane's goals and I think I added
7 one, Number 4.

8 Q Okay. What does Number 4 say?

9 A Set up behavior tracking sheets.

10 Q Behavior tracking sheets. What are
11 behavior tracking sheets?

12 A Those are flow sheets that the nurses use
13 to document resident behaviors prior to medicating.

14 Q Prior to what?

15 A Medicating or prior to treating them or
16 after. If there's an unusual behavior, it should be
17 put on a behavior flow sheet.

18 Q And it looks like you signed this on
19 2/8/13; is that correct?

20 A Yes.

21 Q What are the initials after your name?
22 What does that stand for?

23 A Nursing home administrator.

24 Q Nursing home administrator?

25 A Yes.

1 Q Do you give evaluations to any other
2 employees other than Jane?

3 A Yes.

4 Q Okay. Who else do you provide evaluations
5 for?

6 A I give evaluations to the social service
7 director.

8 Q Okay. Who was that? Is that still --

9 A Lisa Inskeep.

10 Q Inskeep?

11 A Yeah. Yes.

12 Q Okay. Anybody else?

13 A To the activity director.

14 Q Who is that?

15 A Marge Luedeke.

16 Q Okay.

17 A To the food service supervisor.

18 Q Okay. Who's that?

19 A That's Liz Miller.

20 Q Okay.

21 A To the maintenance person.

22 Q Who was that?

23 A Most recently, that position changed. I'm
24 trying to remember the guy's name. Pat somebody, I
25 think. I don't think I gave him any eval.

1 Q Who was it before Pat?

2 A Before -- before Pat, I think it was Jerry
3 Piper.

4 Q What happened to him?

5 A He passed away.

6 Q When?

7 A Sometime last fall maybe.

8 Q How long had he been the maintenance
9 person?

10 A Maybe a year.

11 Q In 2011, did the facility have an annual
12 evaluation?

13 A I don't recall.

14 (Whereupon, Plaintiff's Exhibit 18
15 was marked for identification.)

16 Q Handing you what's been marked as
17 Plaintiff's Exhibit 18. Take a moment to look at
18 that, please. Have you seen Plaintiff's Exhibit 18
19 prior to today?

20 A Yes.

21 Q For the record, what does Plaintiff's
22 Exhibit 18 appear to be a copy of?

23 A Appears to be my performance evaluation
24 from 2011.

25 Q Okay. Would you consider this a positive

1 performance evaluation?

2 A Yes.

3 Q Where it says the controllables should be
4 much better for 2012, what's a controllable?

5 A That's a group of accounts that are
6 managed on per patient, day, rate, and it's a set
7 daily budget based on patients in-house and a group
8 of supply accounts mostly.

9 Q Did you ask Barry what he meant by the
10 controllables should be much better?

11 A No.

12 Q Did you know what he meant?

13 A Yes.

14 Q What did he mean?

15 A He was looking for -- he was looking for
16 the results to be at budget.

17 Q The results to be what?

18 A At budget.

19 Q Okay. But overall, do you think it was a
20 positive evaluation?

21 A Yes.

22 (Whereupon, Plaintiff's Exhibit 19
23 was marked for identification.)

24 Q Handing you what's been marked as
25 Plaintiff's Exhibit 19. Have you seen this document

1 prior to today?

2 A Yes.

3 Q For the record, what does this document
4 appear to be a copy of?

5 A My performance eval from 2013 -- 2012, I
6 guess.

7 Q Covering 2012?

8 A Yes.

9 Q Do you consider this to be a positive
10 evaluation?

11 A Yes.

12 MR. FRANKLIN: Okay. Can we take
13 like five minutes?

14 MR. GARRISON: Sure.

15 (Whereupon, a recess was taken at
16 2:40 p.m. and resumed at 2:50 p.m.)

17 (Whereupon, Plaintiff's Exhibit 20
18 was marked for identification.)

19 BY MR. FRANKLIN:

20 Q Handing you what's been marked as
21 Plaintiff's Exhibit 20. If you could look at these
22 documents, please. Have you had the opportunity to
23 look at Plaintiff's Exhibit 20?

24 A Yes, I did.

25 Q What are Silverchair Learning Systems?

1 What is this?

2 A This is an education -- on-line education
3 system that is accredited and it is recognized as a
4 kind of an industry education standard.

5 Q Do you have a similar system that you use
6 to get your continuing education?

7 A Yes. Some of it, yes.

8 Q Okay. Is yours called Silverchair?

9 A Yes.

10 Q Okay. But these are Silverchairs for
11 Jane?

12 A Yes.

13 Q Okay. And if you get a certificate of
14 completion, does that evidence that you sat through
15 and completed the requirements for that particular
16 module or class?

17 A Yes.

18 Q Okay. For instance, the first one looks
19 like it's the ins and outs of documentation; is that
20 fair?

21 A Yes.

22 Q Do you have similar Silverchairs? Like
23 would you have the ins and outs of documentation
24 that you would have to look at and fill out?

25 A Each position has a group that they're

1 responsible for learning.

2 Q Okay.

3 A Mine may have included this or may not
4 have, I don't know.

5 Q And this is something that the employee
6 does outside of work?

7 A Typically it's completed in the workplace,
8 but yes, you can -- you can go on-line and purchase
9 it if you care to independently.

10 Q Well, I mean, could the employee do these
11 at home?

12 A Yes.

13 Q Okay. And they wouldn't have to pay for
14 them? The company pays for them, right?

15 A I believe so.

16 Q Okay. Handing you what's been marked as
17 Defendants' Exhibit U. If you could take some time
18 to look at that document, please. Have you seen
19 this document prior to today?

20 A Yes.

21 Q For the record, what does this document
22 appear to be a copy of?

23 A It looks like an employee memorandum on
24 labor hours --

25 Q Okay.

1 A -- for Jane.

2 Q You wrote -- is this your handwriting on
3 the first page?

4 A Yes.

5 Q Okay. And it's to Jane at the top and it
6 says RN DON and then it says St. Marys Number 61; do
7 you see that?

8 A Yes. That's not my handwriting.

9 Q That's not your handwriting?

10 A The St. Marys 61 isn't.

11 Q Whose handwriting is it, if you know?

12 A I'm not sure.

13 Q Okay. What is this document? I see that
14 there's nothing filled out in the second section,
15 description of violation, any previous violations?
16 What is this?

17 A This is just a progressive -- it's just an
18 employment memorandum for bringing issues into
19 writing.

20 Q What is an employee memorandum? Is it
21 discipline?

22 A Counseling, yes. Counseling.

23 Q So it's documented discipline?

24 A Yes.

25 Q Is it a documented oral?

1 A Yes.

2 Q Okay. Is this the same as we looked at in
3 the evaluation about going over hours?

4 A Yes.

5 Q Okay. On the second page, is that all
6 your handwriting except for where it may be signed
7 by Claudette Minnich -- Minnich?

8 A Minnich. It's mine except for the comment
9 under employee section.

10 Q Okay. Where it says have not received
11 labor report since June 6th?

12 A Yes.

13 Q What's a labor report?

14 A That's a report that is issued by the
15 company that talks about the budgeted hours versus
16 the actual worked.

17 Q Okay. Well, did you have -- strike that.
18 Did Jane explain to you why she needed to see that
19 report in her opinion?

20 A Yeah, she needs to see the report.

21 Q Okay. But do you -- did she explain to
22 you why?

23 A I don't recall.

24 Q Okay. Under corrective action, did you
25 write Jane should have requested a copy of the labor

1 report if needed?

2 A Yes, I did.

3 Q Is that what you said?

4 A Yes.

5 Q Okay. And then did you write refused to
6 sign?

7 A Yes.

8 Q Okay. Handing you what's been marked as
9 Defendants' Exhibit V. Have you seen this document
10 prior to today?

11 A Yes.

12 Q For the record, what does this document
13 appear to be a copy of?

14 A Appears to be an employee memorandum.

15 Q Okay. Is that your handwriting on the
16 first page?

17 A Yes.

18 Q Except for where it says St. Marys Number
19 61?

20 A Yes.

21 Q And this appears to be a final written
22 warning; do you see that?

23 A Yes.

24 Q And then if we look at the next page, it
25 says -- well, why don't you tell me what it says.

1 Jane was overheard?

2 A Yes. Jane was overheard yelling at a
3 nurse on Friday 7/13/12 at approximately 2:30 p.m.
4 in a patient area and in front of others.

5 Q Okay. And then corrective action, what
6 does that say?

7 A Says Jane will be placed on a 30-, 60-,
8 90-, 180-day action plan to work on employee
9 relations, respect, communication, the correct way
10 to educate and train employees, improve
11 follow-through and relationships with other
12 department managers.

13 Q Okay. And then it's dated 7/17/12,
14 correct?

15 A Yes.

16 Q Where's your signature?

17 A I didn't sign it and Jane refused to sign
18 it --

19 Q Okay.

20 A -- and so --

21 Q Okay. The last document we looked at
22 where Jane refused to sign, you wrote in the
23 section --

24 A Right.

25 Q -- refused to sign?

1 A Right.

2 Q I don't see where you wrote that on this
3 document?

4 A I didn't. I'm trying to remember the
5 events of that day or week, but we had a meeting
6 scheduled or the HR director was coming in and one
7 or the other did not appear for the meetings, so I
8 reviewed it with Jane and she looked at the plan and
9 didn't sign it and I didn't sign it either.

10 Q Well, are you sure that you went over this
11 document with Jane?

12 A No. I think I went over the 30-day action
13 plan with her, but I can't recall for sure.

14 Q Okay. Looking at Defendants' Exhibit V,
15 did you ever give this document to Jane?

16 A I don't recall for sure.

17 Q Did you ever ask Jane to sign this
18 document?

19 A I don't recall for sure.

20 Q I mean, you keep testifying under oath
21 that Jane refused to sign this document, and now you
22 don't even know if Jane ever saw the document?

23 A I think Jane saw the part that went with
24 this document. I'm not sure if she saw this actual
25 document.

1 Q The part that went with the document?

2 A The 30-, 60-, 90-day action plan itself.

3 Q What does that look like?

4 A It was a plan that --

5 Q No, tell me what it physically looks like
6 because I want to ask for it. So what do I say?

7 A It's a three-part plan. It's a plan that
8 has certain goals at certain time periods.

9 Q No. How many pages is it? Let's start
10 there.

11 A Two or three.

12 Q Okay. What's across the top?

13 A I don't recall exact words. I think it
14 says action plan on it somewhere.

15 Q Okay. And she refused to sign that?

16 A She reviewed it and laid it down on the
17 desk. That's the best I recall.

18 Q Did you ask her to sign it?

19 A I believe I did, yes.

20 Q Or you believe you did?

21 A I think I did.

22 Q Did you --

23 A I can't remember for sure.

24 Q -- or did you not?

25 A We were sitting there looking at the

1 documents and either Claudette had come or gone and
2 the point was not to discipline Jane, the point was
3 to get the behavior changed.

4 Q What do you mean Claudette had come and
5 gone?

6 A We had a time -- if I remember correctly,
7 we had a time set up to meet. I don't know if
8 Claudette came in and then left or if Jane came in
9 and left but we did not meet that day, the three of
10 us together in the room.

11 Q Okay. Well, when did you write this
12 document? Was it before or after you had this
13 alleged meeting with Jane about the performance
14 plan?

15 A It was before, I think, but I can't recall
16 the exact date. I can't recall what was done.
17 These were kind of simultaneously, but I don't
18 remember the exact date.

19 Q Well, could you have drafted this document
20 after the meeting with Jane?

21 A It's possible, but it doesn't matter since
22 she didn't sign it.

23 Q Well, you didn't sign it either?

24 A Right.

25 Q Are you saying Claudette was in the room?

1 Why didn't she sign it?

2 A Claudette was in the room with me and then
3 either Jane didn't come or Jane was there and left,
4 one of the two. The three of us did not connect
5 that day.

6 Q Why didn't you sign it then?

7 A I don't want to sign something that I
8 haven't really -- I don't like to sign things that I
9 haven't given to people or that I haven't got
10 witnessed.

11 Q That you haven't got witnessed, what does
12 that mean?

13 A It's -- I think it's better to have things
14 signed in the presence of others when you're
15 completing it.

16 Q So you didn't sign it because Claudette
17 wasn't there?

18 A Well, if Jane refused to sign, which was
19 typical, then without having a witness present,
20 nothing would have been signed.

21 Q Okay. You said Jane didn't sign, which
22 was typical; what do you mean by that?

23 A I mean that I think there were other
24 issues that were put in writing that Jane refused to
25 sign.

1 Q Okay. Well, if Jane refused to sign, I
2 see that you write in the section --

3 A Yes.

4 Q -- refused to sign, right?

5 A Right.

6 Q Okay. And we've seen one document so far
7 that says refused to sign?

8 A Okay.

9 Q And now we're looking at Defendants'
10 Exhibit V, which you don't know if you gave to Jane,
11 you don't know if it was drafted before you even had
12 the meeting with Jane, and you're saying that you
13 didn't sign it because there wasn't a witness there?

14 A I normally would sign things in the
15 presence of the people that were getting it.

16 Q You normally would sign it in the presence
17 of --

18 A I would normally have signed things in the
19 presence of Jane and a witness or whomever. And --

20 Q And what?

21 A I don't recall. I don't know where the
22 three-day action plan was, but I believe I handed it
23 to her and that was the part I wanted her to read.

24 Q Okay. Handing you what was previously
25 marked as Defendants' Exhibit Z. Have you seen this

1 document prior to today?

2 A Yes.

3 Q Is this the 30-day plan you were telling
4 us about?

5 A Yes, this is it.

6 Q Okay. Well, it looks like it's a 90-day
7 plan; do you see that?

8 A Yes, I do see that.

9 Q Okay. So which is correct, your testimony
10 or the document?

11 A I gave -- I believe I handed this to Jane
12 to review and she looked at it and read it and I --
13 if I recall correctly, she said that she would try
14 to improve in these areas.

15 Q Okay. I want to stop you right there --

16 A I didn't ask her to sign it.

17 Q -- to answer my question. Because before
18 we go forward, is the 90 day on the document the
19 truth or is the 30 day that you testified to the
20 truth?

21 A No. I said 30, 60, 90, that's what the
22 plan said. It was 30, 60, 90.

23 Q Okay. You said you handed her a document
24 that said 30-day improvement?

25 A I'm sorry. It was a 30-, 60-, 90-day

1 plan, and this is it. Time periods are on it. And
2 I asked her to read it and to improve.

3 Q Okay. Well, I see on the last page that
4 you could have signed?

5 A Yes.

6 Q And you didn't sign it?

7 A No.

8 Q And where it says employee's signature,
9 you didn't write refused to sign, correct?

10 A Correct.

11 Q Okay. Did you ask her to sign the
12 document?

13 A I don't recall if I did or not.

14 Q Did you give her a copy of the document?

15 A Yes, I did.

16 Q Okay. So you had more than one copy?

17 A I gave her a copy of the document and I
18 believe she took it with her and said she'd review
19 it or something and bring it back. I think. I
20 can't recall for sure.

21 Q Well, if you look at the third page, under
22 comments, says administrator will help -- do you see
23 where I'm at? Third page, bottom.

24 A Yeah.

25 Q Says administrator will help schedule, and

1 facility will pay for the cost of employee training.
2 Administrator agrees to be present at employee's
3 coaching and disciplinary actions if requested by
4 Jane. Results of the monthly employee interviews
5 will be shared with Jane during follow-up meetings
6 to help her improve in those areas and meet
7 objectives. Do you see that?

8 A Yes.

9 Q Did that ever happen?

10 A I met with Jane several times over the
11 past couple years regarding her employment.

12 Q I understand you're going to say -- you're
13 going to tell me something that you did in the last
14 few years, but I'm saying related to the document
15 and what I just read --

16 A Uh-huh.

17 Q -- did you do that? I mean, there's some
18 action that you were --

19 A Yes.

20 Q -- to take?

21 A I believe -- I believe that we sent Jane
22 to an in-service of some type or scheduled her an
23 in-service and some type of employee relations
24 program. Other than that, I don't recall.

25 Q So it's your testimony that she went to an

1 employee relations program or that you scheduled it
2 for her and she didn't go? Which is it?

3 A I don't remember. I don't remember. I
4 think we -- I think I -- I think I asked Barry about
5 an employee performance program and got her enrolled
6 in it. I don't remember if she went or not.

7 Q What do you mean you think you asked
8 Barry? Either you did or you didn't?

9 A I think I asked Barry for approval to pay
10 for a one-day seminar in employee relations.

11 Q No. Either you did or you didn't or
12 you're guessing?

13 A I -- I think I discussed it with him.

14 Q Does "I think" mean it happened or it may
15 have happened?

16 A It may have happened.

17 Q Okay. Okay. Now, there's something on
18 here that says the results of the monthly employee
19 interviews will be shared with Jane. Were you
20 interviewing employees monthly about Jane?

21 A No. I was following up with some of the
22 employees that had posed the complaints previously.

23 Q Okay. Well, did you ever ask -- there's a
24 handful of employees that apparently are complaining
25 about their boss being loud, and I presume there are

1 other employees that aren't complaining; is that
2 fair?

3 A I'm -- I'm sure it is, yes.

4 Q Well, how many employees does Jane have
5 responsibilities for?

6 A Approximately 50 to 60 maybe.

7 Q Okay. And we've got four or five
8 complaining that Jane's yelling at them?

9 A There were more than four or five.

10 Q Okay. Did you catalog the monthly
11 interviews?

12 A They were captured on an annual or
13 bi-annual employee satisfaction survey.

14 Q Well, I think you referenced you were
15 going to do it monthly. Did you do that?

16 A Yes.

17 Q Results of the monthly interviews?

18 A I did not share the results of the monthly
19 interviews with Jane.

20 Q Why not?

21 A I didn't hold them consistently.

22 Q Why not?

23 A I think -- I think at the end -- I think
24 Jane started showing some improvement in 2013.

25 Q In fact, you noted that on her evaluation?

1 A I did. Okay. Yes, I did. I think she --
2 I think she was making an effort and trying to do a
3 better job. I wasn't getting the volume of
4 complaints.

5 Q Of not raising her voice to the employees?
6 That's what she was doing better?

7 A Yes.

8 Q Handing you what's been marked as
9 Defendants' Exhibit W. Have you seen this document
10 prior to today?

11 A Yes.

12 Q For the record, what does this document
13 appear to be a copy of?

14 A Appears to be a copy of an employee
15 memorandum.

16 Q It looks like it says Step 2, first
17 written warning; is that fair?

18 A Yes.

19 Q And you checked that box?

20 A Yes.

21 Q Go back to Defendants' Exhibit V. It's
22 the one that looks like this. It purports to be the
23 final written warning.

24 A Yes.

25 Q What's the date on this document?

1 A It looks like 7/7/12.

2 Q And what's the date on the document that
3 we gave you marked Defendants' Exhibit W? It's the
4 first written warning. It's the one I just handed
5 you.

6 A 7/18/12.

7 Q How does she get a Step 3 in the
8 progressive discipline and then a few days later get
9 a Step 2 in the discipline?

10 A I don't think -- I don't think that this
11 discipline was presented to Jane. I think this was
12 presented to Jane. If I remember right, I think the
13 goal was to maybe use this 30-day action plan first,
14 and since these aren't signed or acknowledged,
15 they're not relevant in my mind.

16 Q Well, you can say that they're not
17 relevant, but you don't unfortunately get to decide
18 and really we don't either.

19 A Uh-huh.

20 Q So going back to Defendants' Exhibit W, is
21 that your handwriting on the first page? It's the
22 one that says Step 2, first written warning. Do you
23 see that?

24 A Yes.

25 Q Okay. Does your handwriting appear

1 everywhere on the document except where it says
2 St. Marys Number 61?

3 A Yes.

4 Q Okay. Now look at the second page. What
5 does this say where it says supervisor's comments?

6 (Whereupon, Susan Kreuser left the
7 room.)

8 A This -- this offense is relating to the
9 event on 7/13/12 in patient PP's room. Jane will
10 use a calmer approach and respectful manner in
11 dealing with employees, not addressing staffing
12 problems in resident areas and in front of therapy
13 staff and/or visitors.

14 Q Who is PP?

15 A I don't remember.

16 Q Okay. What else did you write on the
17 document under corrective action?

18 A Jane, please re-read the Atrium Mission
19 Statement and credo. Follow these guidelines.
20 Complete 100-day action plan. Objectives attached.

21 Q Where does it say, Jane, please re-read?

22 A It doesn't.

23 Q You just added that?

24 A I guess I did.

25 Q Okay. Did you ever present this document

1 to Jane?

2 A I don't remember. I know I presented the
3 action plan.

4 Q Yeah. I know you keep saying that. But
5 did you present this document, the one that we just
6 looked at, Defendants' Exhibit W?

7 A I don't recall.

8 Q Okay. I see that you signed the document
9 allegedly on 7/18/12; do you see that?

10 A Yes.

11 Q And you didn't put anywhere on the
12 document refused to sign?

13 A Right.

14 Q And according to you, this document is not
15 relevant, correct?

16 A Well, I think at the time I discussed the
17 situation with Bob Huenefeld, and I think he
18 suggested we do a 90-day action plan instead of a
19 memorandum. I think.

20 Q Are you saying there's a 30-day and a
21 90-day --

22 A No.

23 Q -- and 180-day action plan somewhere?

24 A No. This is all one plan.

25 Q This. Just for the record, it's

1 Defendants' Exhibit Z. Handing you what's been
2 marked as Defendants' Exhibit X. If you could take
3 a moment to look at that document, please. Have you
4 seen Defendants' Exhibit X prior to today?

5 A I've seen this before, but I don't
6 remember where I saw it at.

7 Q Okay. Well, it looks like it's dated
8 5/25/10 and 6/8/10, do you see that, signatures?

9 A Yes.

10 Q You weren't there at the time, correct?

11 A No.

12 Q Handing you what's been marked as
13 Defendants' Exhibit Y. If you take a moment to look
14 at that, please. Have you seen this document prior
15 to today?

16 A I don't remember this, no.

17 Q Okay. You weren't at the facility on
18 July 22nd, 2010, correct?

19 A No.

20 Q Okay. Handing you what was previously
21 marked as Defendants' Exhibit AA. Have you seen
22 this document prior to today?

23 A Yes.

24 Q For the record, what does this document
25 appear to be a copy of?

1 A It appears to be a written copy of notes
2 that I made.

3 Q Okay. When did you make these notes?

4 A Sometime in November of 2011.

5 Q Okay. Were you doing it continuously,
6 like typing on a -- in a file or how did you take
7 these notes?

8 A I don't recall.

9 Q Okay. 'Cause if you look at the second
10 page, it says on November 10th, and then you have
11 something on November 6th.

12 A These are -- these are staff issues that
13 were brought to me. Shelby Reicher Gates is the
14 name of the nurse. These were issues that I
15 gathered that were employee concerns with Jane.

16 Q Okay. I'm asking right now just
17 physically how this was created?

18 A How this was created? I created this from
19 notes that people had given me or verbal reports
20 that they had told me about.

21 Q Okay. Well, with respect to the verbal
22 reports, did you write it down somewhere other than
23 this document?

24 A Some of it is written down and some of it
25 isn't.

1 Q No. The verbal reports that people would
2 give you, are they written somewhere?

3 A I have to look at it closer.

4 Q Okay. Go ahead.

5 A Some of it is written and some of it is
6 not.

7 Q Okay. Well, with respect to the oral
8 reports, which -- are you saying some of the oral
9 reports you wrote down and some you didn't?

10 A Some of the oral reports -- some of the
11 oral reports -- the oral reports are written in
12 here. The written reports, I got written reports
13 and may have summarized them here.

14 Q Okay. With respect to the oral reports
15 being in here, were they somewhere else first? In
16 other words, when people are telling you, are you
17 jotting them down on scrap pieces of paper? Are you
18 going to your computer and typing them? What are
19 you doing? Physically how are you creating this
20 document?

21 A I don't remember.

22 Q Okay.

23 A I don't remember how I physically -- some
24 reports were in writing. Some people came in and
25 met with me and I maybe typed it on here. I don't

1 remember.

2 Q Did you do it on your desktop at work?

3 A Yes.

4 Q Did it go through more than one version?

5 Did you go back and make changes? I mean --

6 A I don't remember. I don't remember making
7 any changes, but I don't remember. I don't
8 remember.

9 Q Handing you what was previously marked as
10 Defendants' Exhibit BB. Have you seen this document
11 prior to today?

12 A Yes.

13 Q For the record, what does this document
14 appear to be a copy of?

15 A It's a note to a file and I had a
16 conversation with Jane about these issues.

17 Q Did Jane ever see the document?

18 A Yes.

19 Q When did Jane see this document?

20 A When I handed it to her to read.

21 Q Did you ask her to sign it?

22 A I don't recall.

23 Q Did you sign it?

24 A I -- I put my name on it. I didn't sign
25 it, sign it.

1 Q Well, it didn't say note to Jane, it says
2 note to file, right?

3 A Correct. Yes.

4 Q And you're claiming she came in your
5 office and you handed it to her or did you find her
6 out on the floor and hand it to her? How did this
7 happen?

8 A No. I asked her to come to the office and
9 I told her there were some issues that needed to be
10 addressed and I handed this to her to read and Jane
11 did improve.

12 Q Okay. Well, are you out on the floor
13 dealing with situations related to the patients and
14 their medical care or are you in the office most of
15 the time dealing with budgetary issues?

16 A I do about a 50/50 blend of both.

17 Q Uh-huh. How about Jane, does she get to
18 do a 50/50 blend or is she out on the floor?

19 A I -- probably 50/50 blend.

20 Q Really? Tell me about the 50/50.
21 What's -- let's say 50 percent she's out on the
22 floor. What's she doing the other 50 percent of the
23 time?

24 A She would be inputting incident and
25 accident reports or reading nursing notes. She

1 would maybe be doing her pharmacy recommendations.

2 Q Okay. Well, doing nursing notes and
3 pharmacy recommendations, she can be out on the
4 floor doing that, right? She can be at the nurses'
5 station?

6 A Yes.

7 Q Okay. Do you count that as not being
8 50 percent on the floor if she's in the nurses'
9 station?

10 A Jane normally did a lot of that from her
11 office, but you can do it wherever. Part of it is
12 administrative work and part of it is hands on
13 working with employees and inspecting patient care.

14 Q You don't consider that there may just be
15 a few employees that don't want to answer to their
16 boss and they want to try to get their boss in
17 trouble and they have an administrator apparently
18 that will allow them to do that?

19 A I believe that that could be very
20 possible, but I feel like during the duration of my
21 time there, the employee comments were excessive and
22 pervasive and they got marginally better for a
23 period of time and -- but there were still comments.

24 Q Well, by the time you fill out her
25 evaluation in February of '13, you're indicating

1 that there's improvement in those areas, correct?

2 A Yes.

3 (Whereupon, Plaintiff's Exhibit 21
4 was marked for identification.)

5 Q Handing you what's been marked as
6 Plaintiff's Exhibit 21. If you could take a moment
7 to look at that, please. Have you seen this
8 document prior to today?

9 A Yes.

10 Q For the record, what does this document
11 appear to be a copy of?

12 A It's a copy of an employee satisfaction
13 survey.

14 Q Okay. Is this one of the documents you
15 were using to indicate that employees may be unhappy
16 with Jane?

17 A Yes.

18 Q Okay. And this is something an employee
19 can fill out without anyone knowing who's making the
20 complaint, correct?

21 A Yes.

22 Q Okay. And it looks like if you look under
23 the -- maybe -- it's the third page. It starts out
24 under the line that's blackened DON has favorites,
25 DON has favorites, DON tends to favor certain staff

1 members. Do you see that?

2 A Yes.

3 Q And on the very next page, it says
4 employees are treated better due to personal
5 relationships with DON and administrator, see that?

6 A No. What page is that, please?

7 Q Bates stamped 853, maybe the third full
8 complaint.

9 A Yes, I see it. Yes.

10 Q And in this thing, people complain that
11 they're not getting paid enough, correct?

12 A Correct.

13 Q People complain the air conditioner isn't
14 working, right?

15 A Correct.

16 Q I mean it just seems to be a survey where
17 employees can vent without having to produce any
18 evidence or naming any names, correct?

19 A Correct.

20 Q Would you agree with me that this survey,
21 it says date close 6/30/12, so this would be for the
22 first half of '12?

23 A Yes, I think so.

24 Q First page, it says survey close date.

25 A Yeah.

1 (Whereupon, Plaintiff's Exhibit 22
2 was marked for identification.)

3 Q You seen Plaintiff's Exhibit 22 prior to
4 today?

5 A Yes.

6 Q For the record, what does Plaintiff's
7 Exhibit 22 appear to be a copy of?

8 A The employee satisfaction survey.

9 Q And it looks like this was for the second
10 half of '12?

11 A Yes.

12 Q Is that fair? And is it -- if an employee
13 puts a 1 or a 5, do they get to further explain
14 their answer? Or I mean how does this work?

15 A Well, I think, if I remember properly, it
16 was on-line and you answer questions and then you
17 had an opportunity to write comments on the bottom.
18 I can --

19 Q Okay. Well, let's look at the overall.
20 If something is a 4 -- the highest it can be is a 5;
21 is that correct?

22 A Yes.

23 Q Okay. So it says I regularly see my
24 administrator, 4.4. Do you see that?

25 A Yes.

1 Q I mean that's a good score, right?

2 A Yes.

3 Q I regularly see my DON, 4.2, see that on
4 the next page?

5 A Yes.

6 Q The administrator and the DON know my
7 name. Do you see that? 4.7?

8 A Yes.

9 Q And then it goes on. Okay. But then some
10 people complain about how much FMLA time another
11 employee takes. If you look on Bates stamped Page
12 858, and there's a big block that's kind of -- has
13 black on it. Then if you look one, two, three,
14 four, five, six, seven, it says the restorative
15 nurse was on a longer FMLA than three months and
16 went back into her job. Do you see that?

17 A Yes.

18 Q So people have the ability to just
19 complain about their coworkers, too, right?

20 A Yes.

21 Q Okay. I just find it interesting that you
22 would hold the comments that are made by the people
23 in the survey and use those comments to try to
24 counsel your DON. I mean, why would you use the
25 comments these people are making to counsel your DON

1 when they're just all over the place? People
2 complain about everything.

3 A Well, Jane is the director of nursing and
4 her activity sets the precedent for the rest of the
5 nurses and the staff in the building.

6 Q Well, there's things in here about you
7 that aren't complimentary.

8 A Oh, I'm sure there are.

9 Q Does your boss hold you to task on what
10 people say about you in the survey?

11 A I was -- I was talked to about a couple of
12 comments, yes.

13 Q But they're comments, would you agree with
14 me, that are just made anonymously without any
15 supporting documentation or evidence, right?

16 A I'd have to read the document here a
17 little more thoroughly.

18 Q Okay. Go ahead. What's an Accu-Check?

19 A That's a piece of equipment that checks
20 your glucose level.

21 Q Okay. Ultimately are you responsible for
22 making sure those work?

23 A Me, personally?

24 Q Yeah. Yeah. You're the administrator.

25 A I'm ultimately responsible for everything

1 probably.

2 Q My question, I think, was on this
3 document, people don't provide evidence to support
4 their complaint, correct?

5 A Correct.

6 Q Do you ever hold a -- probably don't know
7 the term good and welfare. It's a union term, but
8 do you ever hold sessions where employees can
9 complain to you face to face and provide evidence?

10 A Yes. My door's open.

11 Q Okay. And when someone comes in and makes
12 that type of complaint, did you document the
13 complaint?

14 A I follow up on it if I feel that it's
15 valid.

16 Q Okay. But do you document it? I'm not
17 asking if you follow up on it.

18 A Sometimes yes; sometimes no. It depends.

19 Q If you document it, would it be in the
20 legal pad?

21 A No.

22 Q Where would it be?

23 A If I documented a complaint, I would ask
24 the employee to write a statement.

25 Q Okay. Well, where can I find the

1 statements then since you don't write them? You
2 have the employee write them. Where are they?

3 A It's a verbal report. If I took something
4 on the fly, I would maybe follow up with it verbally
5 or I might ask the employee to write the statement
6 and give it to me later.

7 Q Okay. But what happens to the statement?
8 Where's it at? Where do you put them?

9 A I don't have -- I don't know.

10 Q I mean is there a file called employee
11 statements?

12 A No.

13 Q Do you put them in the employee's
14 personnel file?

15 A Sometimes. Sometimes they would go in a
16 personnel file.

17 Q Okay.

18 A Other times the issue is resolved and
19 there's no need for further follow-up. I don't keep
20 the paper.

21 Q You just destroy it?

22 A I didn't keep it. I don't know if -- what
23 HR does with them. I don't know.

24 Q HR has these types of files?

25 A I don't -- whatever -- if there's a -- if

1 there's a situation where I get a complaint, if I --
2 normally standard practice is to let the person put
3 it in writing. If they talk to me about something
4 once or twice and I follow up on it and there's
5 still an issue, then I'm going to ask for it to be
6 in writing. If not, I would verbally correct the
7 situation and that would be it.

8 Q Okay. But when the employee puts this in
9 writing, you ask the employee? Do they take it upon
10 themselves to? Where are the writings kept? If the
11 lawyers in the case want to read the writings, where
12 are they?

13 A I don't know.

14 Q Well, what's your standard practice even?

15 A Standard practice is to -- I guess to keep
16 them in a file somewhere.

17 Q Okay. But what's the file called?

18 A I don't know what the file's called. I
19 have -- I have a file or did have a file of comment
20 cards or notes at my desk. I don't -- once the
21 issue is resolved, I don't keep them.

22 Q Well, you said you --

23 A Every single letter under my door, no, I
24 don't keep them.

25 Q The ones that you do keep, where do you

1 keep them? What's this file that you just
2 mentioned?

3 A They would have been in a file in my desk
4 drawer.

5 Q Okay. What's the file called? I'm going
6 to write him a letter and I'm going to ask for the
7 file. What's it called? Do you have a little name
8 on it?

9 A No, I don't.

10 Q Just a file that sat in the desk drawer?
11 If there was an issue, you'd drop it in there. If I
12 have to follow up -- is there a bunch of files in
13 it?

14 A No.

15 Q Just one file?

16 A Just one file.

17 Q What drawer did you keep it?

18 A My lower right or left desk drawer.

19 Q Okay. Was the file red, green, manila
20 file? What was it?

21 A It was a manila file.

22 Q Was it a hanging file?

23 A No. It was in a hanging file.

24 Q Okay. Did anyone ever ask you to look
25 through that file to see if there were complaints

1 related to Jane?

2 A No.

3 MR. GARRISON: Let's go off the
4 record for a minute.

5 MR. FRANKLIN: Sure.

6 MR. GARRISON: Just take a quick
7 break.

8 (Whereupon, a recess was taken at
9 3:45 p.m. and resumed at 3:50 p.m.)

10 BY MR. FRANKLIN:

11 Q I'm going to hand you Plaintiff's Exhibit
12 3.

13 THE WITNESS: Oh, I should tell him
14 that?

15 A Your last question, you asked me something
16 about documentation at my desk and you said did
17 anybody ask me for anything. Is that it?

18 Q Obviously you want to tell me something.
19 Just go ahead. Don't worry about my question.

20 A I'm sorry. I scanned or gave everything
21 that I had to Matt at your firm some time ago.
22 Those are all the notes that I have is what you
23 have. That's all.

24 Q What do you mean you scanned? What does
25 that mean?

1 A Somebody asked me a few months ago for
2 copies of the documentation that was in the file,
3 which we gave them, and then they asked me if I had
4 any notes or anything else to add and that's when
5 I -- you have whatever else I had in my file.

6 Q Did you tell anybody about those legal
7 pads?

8 A Nobody asked me about any legal pads.

9 Q Well, I mean did they have to come out and
10 say all notes including notes connected to legal pad
11 or spiral-bound or three-ring folders? I mean did
12 they actually --

13 A No.

14 Q -- have to identify each and every way a
15 note could be kept?

16 A Any note that I recall I would have had
17 with Jane was in that folder. I wouldn't -- I
18 didn't have anything significant that would have
19 been added from a legal pad or from any other
20 document.

21 Q See, with all due respect, the lawyers for
22 good or bad probably don't want to think that you're
23 saying there's nothing significant. Significant
24 could be favorable to your side or favorable to me.
25 We'd like the document.

1 A Anything that I did with Jane, you've
2 seen. I haven't -- there's nothing that I know of
3 that I created or remember that isn't here that I've
4 looked at or on this table.

5 Q No. But at the time that they asked you,
6 let's say, to scan those documents, why didn't you
7 say I also have legal pads that may be relevant?

8 A Because I didn't -- didn't have anything
9 on a legal pad that I remember relating to Jane.

10 Q I understand that you remember --

11 A I'm sorry. I don't -- yes.

12 Q -- but that's --

13 A I don't -- would not have associated
14 having a notepad as having a document for her file.
15 Sorry.

16 Q Well, after the lawyers had you scan that
17 file, at some point did you shred your legal pads?

18 A I didn't deliberately shred anything. I
19 threw everything -- when I cleaned my desk out,
20 anything that was there that wasn't relevant to
21 day-to-day operations or was old, I would have
22 disposed of it. I don't recall anything specific.

23 Q But see, you're making the assessment of
24 whether it's relevant or not.

25 A Right.

1 Q Correct?

2 A Correct.

3 Q And the legal counsel wasn't there helping
4 you because they didn't even know about it?

5 A There was nothing -- I can't recall of
6 anything that was related to Jane at all.

7 Q Yeah. Okay.

8 A Sorry.

9 Q I've handed you what's been marked as
10 Plaintiff's Exhibit 3 and would ask you to read the
11 document.

12 A I wrote --

13 Q Not out loud. Just read it to yourself.
14 Let me know when you're done.

15 A Okay.

16 Q Have you seen this document prior to
17 today?

18 A Yes.

19 Q For the record, what does this document
20 appear to be a copy of?

21 A It appears to be a copy of a statement
22 that was taken from or written by Shelby Gates.

23 Q Okay. How do you know this was written by
24 Shelby? I don't see a name on the document, do you?

25 A No.

1 Q Okay. Is this the document that you were
2 talking about where Jane yelled at Shelby and tried
3 to get her to change what was on some type of note?

4 A Yes.

5 Q Okay. This is the document we were
6 talking about?

7 A Yes.

8 Q Okay. Why didn't you have Shelby sign it?

9 A I think Shelby refused or didn't want her
10 name involved. I think she was intimidated.

11 Q Do you think that's fair to other
12 employees that employees can make an accusation and
13 say I don't want my name used, I don't want to sign
14 the document and then you use the document as some
15 type of discipline for an employee?

16 A Well, I didn't discipline her. I used
17 this as a coaching tool.

18 Q Okay. Did Jane ever see this document?

19 A Jane -- I believe Jane saw it, yes. I
20 think she did see it.

21 Q Okay. Tell me where it's documented that
22 Jane ever saw this statement that's not signed by
23 any employee?

24 A No, it's not.

25 Q And not only is it not signed, it just

1 doesn't have anyone's name?

2 A Correct.

3 Q Doesn't even have your name as a witness?

4 A Correct.

5 Q Why not? Why wouldn't you put your name

6 on there as a witness so at least we know that

7 you're the one that took the statement?

8 A I didn't witness the event happening.

9 Q Okay. But you could have witnessed the
10 employee writing what happened?

11 A I could have. I didn't.

12 Q Why didn't you write refused to sign on
13 this document?

14 A I don't recall. Let me see here. Okay.
15 This was the 14th. I believe that I used this as a
16 part of my employee coaching notes to Jane on
17 November 14th regarding this incident with --

18 Q The notes that Jane never signed, right?

19 A Correct.

20 Q And the notes that you may or may not have
21 shown Jane?

22 A I'm certain I handed them to Jane to
23 review.

24 Q To keep?

25 A She was welcome to have a copy if she

1 wished.

2 Q Well, did you give her -- I mean, the
3 document's almost two pages long, did you expect her
4 to memorize?

5 A No. I can't remember if she had a copy or
6 not. I remember her reviewing them.

7 Q Why wouldn't you have her sign for a copy
8 so we know that she got it and she looked it over?

9 A My -- my goal was not to penalize or
10 humiliate Jane. My goal was to educate her that
11 this was an issue.

12 Q Do you think you could humiliate Jane?

13 A No.

14 Q Okay. Tell me what -- your version of the
15 incident that happened with Kelsey in 2013. If
16 you're going to rely on any notes, just tell us.

17 A Okay. Well, is this the one we're talking
18 about with Kelsey -- Kelsey -- this is the final
19 event, I think. Kelsey called me and --

20 Q Called you where?

21 A On my telephone. On my cell phone.

22 Q Cell phone. Okay.

23 A I wasn't at work. She called me. She was
24 upset and crying. I asked her what was wrong. It
25 took her a little while to get it out. She said

1 that Jane had shoved her into a wall and she was
2 really upset.

3 Q What's the relative age of Kelsey?

4 A 21, 22.

5 Q What do you think the relative age of Jane
6 is?

7 A Sixty something.

8 Q Okay. So Kelsey's upset and crying?

9 A Yes.

10 Q And it took a while for her to get it out?

11 A Yes.

12 Q What did she say when she finally got it
13 out?

14 A She gave me this long story that led up to
15 the event about meatloaf and who ate in the dining
16 room and family members that were upset, and she
17 said -- she said she walked to the end of the hall
18 and met Jane coming down. And she said, I told Jane
19 about my conversation with the family member and she
20 got angry with me, and I tried to tell her no, it
21 was her -- she told me to do what I -- was going to
22 take her to the dining room or not, and then the
23 part that was troubling to her is she said Jane put
24 her hand and pushed her into the wall and held her
25 there, which she said I broke free and she grabbed

1 me and pushed me and held me again. That's --

2 Q Okay. Let's try to clarify a little bit
3 of what you just said.

4 A Okay.

5 Q What's management -- what's patient's
6 rights? Is that a written document?

7 A Yes.

8 Q Okay. And a patient has a right to eat
9 wherever they want?

10 A Yes.

11 Q And wasn't this particular patient
12 complaining that they were being forced to eat in
13 the dining room when they really wanted to eat in
14 their own room?

15 A I don't recall if it was the patient or
16 her daughter.

17 Q Okay.

18 A One of them.

19 Q Well, did you ever interview the patient?

20 A No.

21 Q Did you ever interview the daughter?

22 A I called the daughter and talked with her
23 about what she overheard. She didn't want to get
24 involved. I think she said that she didn't see
25 anything but she heard raised voices in the hallway.

1 Q Okay. Did you write all that down?

2 A I don't recall if I did or not.

3 Q Why wouldn't you?

4 A I don't know. I don't recall if I wrote
5 it down or not. I don't think so.

6 Q Okay. So we only have your word for it,
7 correct?

8 A Yes.

9 Q How did you get the daughter's phone
10 number?

11 A I think I got it off the face sheet of the
12 chart.

13 Q Hmmm.

14 A You're welcome to call her, I'm sure.

15 Q What's her name?

16 A I don't recall, but it can be located.

17 Q More importantly, though, did you talk to
18 the patient?

19 A I don't recall.

20 Q I mean, is the patient suffering from some
21 type of mental illness? Dementia? Alzheimer's?

22 A I don't recall.

23 Q Okay. Because it was the patient -- it's
24 called the patient's rights, right?

25 A Correct.

1 Q It's not the patient's family's rights?

2 A Right.

3 Q And that's something, I presume, that you
4 as an administrator hold very seriously?

5 A Yes, I do.

6 Q I mean, if a patient's in your care, they
7 have certain rights, don't they?

8 A Yes, they do.

9 Q Okay. And I presume that you do trainings
10 to make sure employees understand patient's rights,
11 correct?

12 A We do via Silverchair.

13 Q Okay. And I would think that if an
14 employee was violating a patient's rights, you would
15 take that really seriously?

16 A I would.

17 Q Okay. So does Kelsey explain to you in
18 her whatever state she was in, aggravated or crying,
19 whatever, does she explain to you that Jane was
20 discussing with her patient's rights?

21 A I don't recall patient rights being
22 mentioned.

23 Q Okay. Well, you have the conversation
24 with Chelsea -- Kelsey, what's the next thing that
25 you do?

1 A I think the -- I think the next thing I
2 did was to call Jane.

3 Q Okay. Did you get a hold of her?

4 A Yes, I did.

5 Q Okay. What did Jane say?

6 A I asked Jane, I said what happened between
7 you and Kelsey Friday night.

8 Q Was this Friday that you were talking to
9 her?

10 A No. This was Saturday morning.

11 Q Okay. So what day does Kelsey call you?
12 Friday?

13 A I think Kelsey called me at Saturday
14 morning. I'm not sure.

15 Q So the event takes place Saturday, and
16 Kelsey calls you -- or it takes place on Friday and
17 Kelsey calls you Saturday morning and she's still
18 crying and upset?

19 A I think she may have tried to call me like
20 at three something in the morning. I'm not sure.
21 But I know we finally touched base like at 10:00 in
22 the morning, something like that.

23 Q Why are you saying that you think she
24 called you at 3:00 in the morning?

25 A Because there was a call on my phone, on

1 my cell phone. I got a call, and I think she may
2 have tried to call me in the early morning hours.

3 Q Why do you say that? Was her phone
4 number --

5 A Oh, I don't know.

6 Q Did she leave a message?

7 A No, I don't know. I don't recall.

8 Q It could have been anyone in the world
9 that tried to call you on your cell phone?

10 A It could have been. You're right.

11 Q You're just guessing?

12 A I don't know who called me that early in
13 the morning.

14 Q Well, did the number come up?

15 A I don't recall for sure.

16 Q I mean, if someone calls me in on my cell
17 phone, I look at it and I can see the number.

18 A Yeah.

19 Q Unless it says blocked or whatever.

20 A Right. I don't recall for sure.

21 Q Okay. So somebody tried to call you at
22 3:00, what, did you answer too late? Did you just
23 see you missed a call?

24 A I think it was a missed call.

25 Q Okay. And you're presuming that it was

1 Kelsey?

2 A I'm not sure.

3 Q But it could have been anyone in the
4 world?

5 A It could have been.

6 Q Okay. So you have a talk with Kelsey at
7 10:00 something a.m. on Saturday, correct?

8 A Yes.

9 Q Okay. And that's the first time you've
10 heard of this alleged incident?

11 A Yes.

12 Q Okay. Even though ultimately there are
13 witnesses allegedly to the incident, no one informed
14 you of this incident until Saturday when Kelsey
15 calls, correct?

16 A Yes.

17 Q Okay. So Kelsey goes through her --
18 you've already explained, this crying and she's
19 still upset. Did she threaten to -- did Kelsey
20 threaten in any way to involve the authorities?

21 A Yes.

22 Q Okay. Well, you left that part out. So
23 tell us that part.

24 A She threatened to take it to her father,
25 who I think is a policeman or detective or something

1 on the St. Marys Police force.

2 Q Okay. Did that scare you in some way?

3 A She wanted to press assault charges, and I
4 wasn't scared. It was more, one, I didn't want to
5 involve the facility. Two, I didn't want to do
6 anything to jeopardize Jane's nursing license, and I
7 asked her for some time to investigate and look at
8 the situation.

9 Q Well, Kelsey's dad being a policeman, what
10 did that have to do with it? I mean, first of all,
11 you claim that she told you that she got pushed,
12 which is battery, so did she say I'm going to press
13 charges for assault and battery?

14 A I don't remember the battery part. I
15 remember that she wanted to file charges --

16 Q All right. Let her. Right?

17 A -- sometime so --

18 Q You can't keep her from filing charges,
19 right?

20 A No, I can't.

21 Q Okay. And you can't keep her from going
22 to the Ohio Board of Nursing and making a complaint,
23 correct?

24 A Correct.

25 Q So you asked her for time to do what?

1 Investigate?

2 A Yes. And I asked her to come in on
3 Monday, I believe.

4 Q Okay. Had you ever met her father?

5 A No.

6 Q I mean, what makes you think he was a
7 policeman or a detective or something?

8 A She told me he was.

9 Q During that conversation or some other
10 time?

11 A I think it was during that conversation.

12 Q Okay. So the first time you find out her
13 father may be a policeman or detective is during
14 that conversation?

15 A I think so.

16 Q So how does she say it to you? She
17 doesn't just say I'm going to press charges, she
18 says I'm going to get my dad involved?

19 A I think she said she told her father about
20 the incident and he was recommending that she press
21 charges, something along those lines.

22 Q Okay. Well, so she could have gone to the
23 prosecutor and pressed charges?

24 A She could have.

25 Q Okay. But you asked her not to get time

1 to investigate?

2 A Yes.

3 Q And then you called Jane?

4 A And then I called -- I called Jane and
5 asked her what had happened.

6 Q Okay. And what did she say?

7 A Jane remembered raising her voice.

8 Q Okay.

9 A She said she didn't remember anything
10 about touching her.

11 Q Okay.

12 A And then I reported it to Barry.

13 Q Okay. How did you report it to Barry? By
14 phone? By --

15 A By phone.

16 Q -- computer? When you told Barry the
17 story, did you say she threatened to get her dad
18 involved who's a policeman or detective in
19 St. Marys?

20 A I don't know if I told him during that
21 initial conversation. I think he found out probably
22 that following Monday.

23 Q Well, did you tell Jane that Kelsey was
24 threatening to press charges and that her dad was a
25 policeman or a detective at St. Marys?

1 A I don't remember.

2 Q Well, if you were concerned about Jane,
3 which you said hold off and I'll investigate, why
4 wouldn't you tell Jane that?

5 A I may have. I don't remember.

6 Q Okay. So you have the conversation with
7 Jane. Do you take notes?

8 A No.

9 Q Okay. Then you contact Barry on that same
10 Saturday?

11 A Yes.

12 Q Okay. By phone?

13 A Yes.

14 Q Okay. You call his cell phone?

15 A Yes.

16 Q What do you say to him?

17 A I told him that I received a report from
18 an employee that was very upset, that she claimed
19 that Jane had pinned her against a wall and held her
20 there and that she had done it in front of
21 witnesses, and that -- I think something along those
22 lines there.

23 Q Let me stop you there. Where did the
24 witnesses come in? You haven't told us any part of
25 the story where anybody said there were witnesses?

1 A When I was talking with Kelsey, I asked
2 Kelsey was there anybody else around and she said
3 yes.

4 Q Did she name names?

5 A Yes, she named a nurse, Jill.

6 Q Okay.

7 A She named Ciara. I don't remember her
8 last name. I think she gave the name of Darla
9 Michaels, I believe. I don't remember. I can't
10 remember of anything else.

11 Q Okay. Jill is a nurse?

12 A Yes.

13 Q Ciara is an STNA?

14 A Yes.

15 Q And what's Darla?

16 A An STNA.

17 Q Okay. How old is Ciara?

18 A 20, maybe, 21.

19 Q Same age as Kelsey?

20 A Probably close.

21 Q What about Darla, how old is she?

22 A 50, 55 maybe.

23 Q What about Jill?

24 A 35, maybe, 30.

25 Q Okay. So in the story now when you talk

1 to Kelsey and she's upset and saying she's going to
2 go file charges or whatever, you asked her if there
3 are any witnesses and she names Jill, Ciara, and
4 Darla; is that fair?

5 A Yes. I think. Yes.

6 Q Okay. Did you tell Barry that?

7 A I don't know if I told him specifically
8 who they were, but I said it was in front of
9 witnesses or people who were around.

10 Q Well, allegedly. You hadn't talked to any
11 of the witnesses, right?

12 A No, I hadn't.

13 Q So we only have Kelsey's word for it?

14 A Correct.

15 Q Did you ask Jane if there was anyone
16 around?

17 A I don't recall if I did or not.

18 Q Because maybe her witnesses might have
19 differed from Kelsey naming someone like Ciara?

20 A I asked Jane to complete a statement and
21 to write down her recollection of the event and I
22 never saw one, so I don't know.

23 Q So what do you mean you asked Jane to
24 write a statement and you never saw it?

25 A I asked Jane to give us a written

1 statement regarding her -- what she felt took place
2 and I don't know if there's a statement that exists,
3 but I never received one.

4 Q Well, let's be fair, you asked Kelsey to
5 name the witnesses, right?

6 A I asked her to put it in a statement, to
7 write a statement.

8 Q No, I thought you told me she told you
9 Darla, Jill, and Ciara?

10 A I think she did, but I asked her to put it
11 in writing.

12 Q Okay. Well, did you do that with Jane?
13 Did you ask her, name the witnesses while you're on
14 phone?

15 A I don't recall. I don't recall if I did
16 or not.

17 Q Did Jane tell you when she was on the
18 phone with you that she was sick?

19 A No. I don't recall it.

20 Q Well, see, there you go. If you don't
21 recall, are you saying it didn't happen or you don't
22 have present day recollection?

23 A I don't have present day recollection. I
24 can't remember.

25 Q So when was Jane scheduled to be back at

1 work next?

2 A Probably Monday.

3 Q Okay. When was Kelsey supposed to be back
4 at work?

5 A I don't know what her schedule was.

6 Q Okay. So what happens after you tell
7 Barry?

8 A I think he said something about coming in
9 that next week.

10 Q He was going to come in?

11 A I think so, yes.

12 Q Okay. Anything else? Did he say anything
13 else? Give you any instruction?

14 A I think he said something about calling
15 Kelsey back and let her know that we were going to
16 investigate it, something along those lines.

17 Q Hadn't you already told Kelsey that?

18 A Yes, I did.

19 Q So did you say I don't need to call her
20 back, I've already told her that?

21 A I did it. I believe I did it anyway. I
22 talked to Kelsey --

23 Q So you --

24 A -- several times.

25 Q -- talked to her a second time?

1 A Yes.

2 Q Did you say you talked to Kelsey several
3 times?

4 A Over that three- or four-day period, yes.

5 Q Okay. Well, tell me about the second time
6 after Barry tells you to call her back and say we're
7 investigating?

8 A That's what I said. I said we're
9 investigating and something -- please bring your
10 statement in Monday or as soon as you can, something
11 along those lines.

12 Q Did you call Jane back and say I talked to
13 Barry and we're investigating?

14 A I tried to call Jane at some point, but I
15 could not get through on her cell phone.

16 Q No. Did you try her as soon as you got
17 off the phone with Kelsey?

18 A I don't remember when it was exactly, what
19 time.

20 Q Well, was it on the Sunday? Was it still
21 on Saturday?

22 A I don't recall for sure.

23 Q Well, did you talk to Kelsey the second
24 time on Saturday after you talked to Barry?

25 A I think it was either Saturday or Sunday

1 and I don't remember which day.

2 Q I mean, were you concerned that you didn't
3 want to get the facility involved in any type of
4 criminal action if there was?

5 A Yes.

6 Q Did you care about Jane?

7 A Yes.

8 Q So how many times over the weekend,
9 meaning Saturday and Sunday, did you talk to Kelsey?
10 We know you talked to her twice now. Did you talk
11 to her again?

12 A I don't think I talked to her again until
13 maybe Monday when she brought her statements in.

14 Q Did you get the sense that here's a
15 22-year-old girl who's trying to manipulate the
16 entire facility because daddy happens to be a
17 policeman or a detective?

18 MR. FRANKLIN: No offense, Teri.

19 A No, I didn't get that impression.

20 Q You didn't get that sense?

21 A No.

22 Q So on Monday, did you have another talk
23 with Kelsey?

24 A On Monday, Kelsey brought in her
25 statement.

1 Q You've told us that.

2 A Yes.

3 Q I asked if you talked to Kelsey.

4 A I'm trying to remember if I talked to
5 Kelsey. Probably briefly. I think I let her know
6 that there would be corporate people coming in to
7 interview her. I don't think it was for long that I
8 spoke with her, no.

9 Q Well, you said you talked with her several
10 times in that --

11 A To calm her down.

12 Q -- that three- or four-day period. To
13 calm her down?

14 A Yes.

15 Q Why, was she still upset on Monday?

16 A Yes.

17 Q Well, describe for us how she was acting
18 where you had to calm her down?

19 A Well, she was tearful. She was very
20 angry. She was in shock.

21 Q No. No. No. She was in shock?

22 A She appeared to be in shock. She appeared
23 to be in shock.

24 Q Uh-huh. What -- describe for me how she's
25 angry and tearful and appears to be in shock?

1 A She was incredulous. She was very
2 surprised that the event happened, and she was very
3 embarrassed that it happened in front of others.

4 Q Is that what she said to you in this
5 shocked state? I'm going to be incredulous and I'm
6 very embarrassed that it happened in front of
7 people?

8 A She was very embarrassed.

9 Q No, did she say that?

10 A She appeared -- yes, she said she was
11 embarrassed, and she appeared to be very surprised.

12 Q Appeared to be very surprised. Okay.
13 Describe what someone looks like when they appear to
14 be surprised, they're angry, they're in shock,
15 they're incredulous --

16 A She said --

17 Q -- they're embarrassed.

18 A She said something about -- Kelsey said
19 something about she can't believe that this whole --
20 that it happened. That was her -- I can't believe
21 that it happened.

22 Q Well, since she was in shock, did you tell
23 her that she should get medical treatment?

24 MR. GARRISON: Objection.

25 Argumentative.

1 Q Since you came to the conclusion she was
2 in shock, did you recommend medical treatment?

3 A No.

4 Q Where did you have this conversation with
5 Kelsey where you've said she was incredulous,
6 embarrassed, shocked? Where did that take place?

7 A I believe it was in my office that morning
8 when she dropped off the statement.

9 Q Okay. Did her statement say she was
10 incredulous, embarrassed, and in shock?

11 A I'd have to see it again.

12 Q Did you write it anywhere? Because I'm
13 hearing from you -- I'm hearing for the first time
14 all of these words.

15 A Those were my impressions --

16 Q Uh-huh.

17 A -- of her.

18 Q Well, did you write them down?

19 A No.

20 Q So they're your impressions as you
21 recall --

22 A Yes.

23 Q -- over a year ago?

24 A Yes.

25 Q Why didn't you write all of this down?

1 A There wasn't any need to. She had
2 written -- supplied her statement and her list of
3 who she felt overheard, and I didn't feel a need to
4 document her emotional response.

5 Q Okay. Or what she was saying?

6 A I -- I was not following up on the
7 investigation.

8 Q Okay. Well, I mean, is that why you
9 didn't take notes because you weren't following up
10 on the investigation?

11 A Yes.

12 Q Okay. Well, given that she was, in your
13 words, in shock, did she work that day?

14 A I don't recall.

15 Q I mean did you give her time off of work
16 given that she was in this alleged emotional state?

17 A No. No, I didn't.

18 Q I mean, would you want somebody who is
19 angry and in shock and incredulous handling or
20 dealing with the patients of your facility?

21 A No.

22 Q So what happens next? She gives you the
23 note around 10:00. I forget, what time did you say
24 it was?

25 A Sometime, I think, that morning.

1 Q Okay. Did you call Jane?

2 A No, I don't believe I did. I think I
3 called Clara -- Ciara, the STNA that may have
4 overheard it.

5 Q You called her?

6 A Or called for her, one of the two. She
7 was at a JVS school that day, and I think she
8 returned the call from school.

9 Q What's a JVS school?

10 A It's like a joint vocational training
11 center.

12 Q So is she a minor?

13 A I don't know if she was 18, 19. I don't
14 know what her age was.

15 Q I mean, was she 17, 16, 15?

16 A I don't recall her exact age.

17 Q How old -- I mean, how old are people, if
18 you know, that are in JVS? That's still like a high
19 school, right?

20 A I don't know what her program was.

21 Q Okay. So you call her and she calls you
22 back?

23 A Yes.

24 Q Okay. Did you document that conversation?

25 A No. I asked her to supply a statement of

1 what she saw or heard on that Friday afternoon.

2 Q Did you say anything like write this
3 before you talk to Kelsey, I want to know exactly
4 what you saw?

5 A No.

6 Q I mean, did you give her any admonition
7 about talking to anyone else that might have
8 influenced what she wrote?

9 A No.

10 Q Did you ever read her statement?

11 A Yes.

12 Q Okay. In her statement, did she say Jane
13 was yelling?

14 A I don't recall. I have to see the
15 document.

16 Q Okay. Did you believe everything that
17 Ciara wrote in her document?

18 A I didn't have -- I don't remember anything
19 specific.

20 Q Handing you what's been marked as
21 Plaintiff's Exhibit 6. Have you seen this document
22 prior to today?

23 A Yes.

24 Q Do you see in the document where Ciara
25 says Jane was not yelling at Kelsey?

1 A Yes.

2 Q Okay. Did Kelsey say Jane was yelling at
3 her?

4 A Yes.

5 Q Okay. Did you read Jill's statement?

6 A At one time, yes, I did.

7 Q Did Jill say that she never saw Kelsey --
8 or Jane put her hands on Kelsey?

9 A I don't recall the specifics. I'd have to
10 see the document.

11 Q Did you review these documents in
12 preparation for your deposition?

13 A Yes.

14 Q Okay. So you read them this morning,
15 right?

16 A No.

17 Q No?

18 A I read them a couple days ago, I think.

19 Q What did you look at 25 minutes before we
20 started the deposition? Different documents?

21 A Probably more of the same. I didn't read
22 anything that closely 25 minutes.

23 Q Handing you what's been marked as
24 Plaintiff's Exhibit 4.

25 A Okay.

1 Q Have you seen this document prior to
2 today?

3 A Yes.

4 Q For the record, what does this document
5 appear to be a copy of?

6 A Appears to be a copy of Jill Roby
7 statement.

8 Q Did you read on Page 3 where Jill says
9 then Kelsey got an attitude and said I hate this
10 place, no one tells us anything?

11 A Yes.

12 Q No one communicates with each other?

13 A Yes.

14 Q I don't know if I'll be back on Monday.
15 I'm tired of being a slave. Did you read that?

16 A Yes, I did.

17 Q Do you think Jill was making that up?

18 A I don't know if Jill was making it up.

19 Q Well, have you known Jill to lie in the
20 past?

21 A No. I don't think Jill's lied in the
22 past.

23 Q Well, Jill's an LPN, correct?

24 A Correct.

25 Q Did you see that Jill said on the last

1 page, she didn't hear any profanity or see any acts
2 of violence?

3 A Yes.

4 Q Did you ask Jill if she witnessed Jane
5 touching Kelsey?

6 A I don't recall that, no.

7 Q So we have Ciara saying that Jane wasn't
8 yelling, and we have Jill witnessing apparently
9 Kelsey being upset, saying she may not come to work
10 on Monday and she's tired of being a slave, but
11 nobody says in these statements that -- even Ciara,
12 that Kelsey said get your hands off of me or words
13 to those effect?

14 A I don't know about anything other than
15 these statements.

16 Q I mean is -- let's just say everything
17 that happened was true, and as you keep saying, Jane
18 pushed Kelsey against the wall and pinned her there,
19 is that in and of itself grounds for termination?

20 A Well, I don't know, but with the violence
21 in the workplace rule, I think that that crosses a
22 boundary, yes.

23 Q I mean, had Jane ever pinned you against
24 the wall?

25 A No.

1 Q Ever touched you?

2 A Not in a harmful way, no.

3 Q Okay. Well, would she shake your hand?

4 What do you mean not in a harmful way? What are you
5 alluding to?

6 A I'm not alluding to anything. I'm just
7 saying Jane's never touched me inappropriately, no.

8 Q I mean, have you witnessed Jane pinning
9 people against the wall?

10 A No.

11 Q I mean, did you question in your own mind
12 just the age difference of the people involved in
13 this alleged confrontation?

14 A No.

15 Q Okay. So what did you do next? Did you
16 talk to Jane on Monday?

17 A I don't think so. I think I tried to call
18 her and I couldn't get through for some reason. I
19 think at that point -- I think at that point Bob and
20 Barry came in and took over.

21 Q Okay. Did you talk to Jane on Monday? I
22 know that you said you tried, but did you ever
23 get --

24 A I don't think --

25 Q -- through to her?

1 A No, I don't think so.

2 Q Were you ever made aware that Jane had
3 called off sick?

4 A Claudette brought in a slip at some point
5 that day, but I don't remember exactly what time.

6 Q Well, is Claudette a person that Jane
7 could call off and say that she's too sick to come
8 in?

9 A I'd prefer it would be me directly, but
10 Claudette took the message and wrote it on a slip
11 and brought it to me.

12 Q What do you mean you prefer it to be you?
13 You tell us that Claudette is HR?

14 A Yeah.

15 Q Are you saying that Jane couldn't call off
16 to HR if she's sick?

17 A Jane can call off to HR if she were sick,
18 absolutely. I just prefer that employees call off
19 to me directly if at all possible.

20 Q Okay. But I'm asking you is it grounds
21 for some type of disciplinary action if she -- Jane
22 calls off and talks to Claudette?

23 A No. No.

24 Q What happens next? Who gets there first,
25 Barry or Bob?

1 A I don't remember.

2 Q Does Barry or Bob conduct an
3 investigation?

4 A I assume so.

5 Q Were you asked to leave your office?

6 A Yes.

7 Q Did they use your office?

8 A Yes.

9 Q Well, who was in your -- was Barry and Bob
10 in your office talking to witnesses?

11 A I assume so. I don't know for sure.

12 Q So you think they were both in there?

13 A I don't know.

14 Q I mean, what did they tell you to do?
15 Clear out? We'll tell you when you can come back
16 and use your office?

17 A I think that I asked if they wanted me to
18 sit in, and they said no, they preferred I didn't.
19 So I set up an office somewhere in the conference
20 room or something. I don't remember. I wasn't
21 really in that area much.

22 Q Well, did they give you a list of
23 employees they wanted to talk to?

24 A I think I did. Yes, I think Bob asked me
25 for a list of people to talk with.

1 Q And did you give them that list?

2 A I think so.

3 Q And then did you go and get that employee
4 and bring them into your office and then leave?

5 A No. No.

6 Q Who got the employee?

7 A I think they contacted them directly from
8 the names list.

9 Q Okay, but I'm saying employees of the
10 facility working --

11 A Yes.

12 Q -- how would Bob or Barry contact the
13 employee?

14 A I don't know if they called them. I'm not
15 sure how they tried to reach them. I don't know.

16 Q Okay. But you're confident they were both
17 in that room?

18 A I know at some point they were there
19 together for a period of time, but I don't know how
20 long.

21 Q Okay. What days? You told me you talked
22 to Kelsey on Monday and you described her demeanor.

23 A I don't -- I don't remember if it was
24 Tuesday or Wednesday. I don't remember, or both
25 days, I can't recall.

1 Q To your knowledge, did they interview
2 employees?

3 A I think they did, yes.

4 Q What do you mean you think they did? What
5 leads you to believe they did?

6 A I saw Kelsey who came in the facility and
7 was in the office for a period of time. I think I
8 saw Jill in the office for a while. I think those
9 are the only two I actually saw.

10 Q Well, did Kelsey come in with her dad or
11 did she come in by herself?

12 A I didn't see her father in the -- I don't
13 know who he is, but I didn't see any gentleman with
14 her.

15 Q With a uniform on?

16 A No, I didn't see anyone like that.

17 Q All right. So then what happens after
18 this period of time where you think Bob and Barry
19 are talking to employees?

20 A Then -- let's see, that was Tuesday and
21 Wednesday, I think. I think Jane called off for
22 like three days, and then --

23 Q No. No. Where are you inserting that in
24 the story? Happened on Tuesday or Wednesday?

25 A I'm trying to remember the next time we

1 met and I think it was on Thursday morning, I
2 believe.

3 Q So you think on Thursday Jane called off
4 or had she called off earlier for the three days?

5 A No. I think on Monday she called in and
6 like she was gone for a few days. And then the
7 next -- after Bob and Barry left, the next employee
8 meeting with Jane, I think, was on that following
9 morning after she left.

10 Q The next employee meeting, I don't
11 understand.

12 A Or the next time I met with Jane, I think,
13 was on that Thursday morning.

14 Q Okay. So is Jane in your office?

15 A Yes.

16 Q Anybody else in the office?

17 A No. I think Barry was on the speaker
18 phone.

19 Q Now, was he on the speaker phone from the
20 minute Jane walked into the office or was there a
21 time that you and Jane had a conversation and then
22 you said I need to get Barry on the phone?

23 A I think Jane and I talked for a few
24 minutes before we got Barry on the phone.

25 Q Put me in the conversation where you and

1 Jane talked for a few minutes before you got Barry
2 on the phone.

3 A I don't remember even what we talked
4 about.

5 Q Well, did you say, did you recall touching
6 Kelsey?

7 A No.

8 Q Did you tell her she was going to be
9 terminated?

10 A I don't remember if I did or not. I don't
11 remember.

12 Q Well, you weren't afraid to be in the room
13 with her when you told her that you were going to
14 terminate her?

15 A I don't remember saying that she was being
16 terminated.

17 Q Okay. You don't remember saying it?

18 A No.

19 Q You just -- you don't have present day
20 recollection, but it may have happened?

21 A I don't have present day recollection.

22 Q But it may have happened?

23 A I don't think so.

24 Q But when was the decision made to
25 terminate?

1 A I think the nearest I think is when we --
2 I think I remember something about Jane asking Barry
3 if I don't resign, am I going to be terminated. I
4 think that's it.

5 Q No. When was the decision made to
6 terminate? Did the three of you, you and Barry and
7 Bob have a conversation?

8 A I don't recall.

9 Q Well, so you're not going to be able to
10 tell me if you took notes of the conversation since
11 you don't remember?

12 A I can't remember specifically. I can't
13 remember specifically discussing it with them.

14 Q Well, did you know that at the time that
15 Jane walked into your office that she was going to
16 be terminated?

17 A I think I knew that that was a conclusion,
18 yes.

19 Q Okay. So you don't remember what you and
20 Jane talked about before you got Barry on the phone,
21 right?

22 A No.

23 Q Then Barry gets on the phone and what
24 happens?

25 A I don't really remember much except I

1 remember there was a little bit of chitchat and then
2 I remember -- I remember Jane asking something about
3 if I'm going to resign or should I be fired. I'm
4 not sure. I think -- I think Jane said if I don't
5 resign, am I going to be asked to leave or be fired
6 and I think he said yes.

7 Q Well, was Jane terminated or did she
8 resign?

9 A I don't know. I think she resigned.

10 Q Well, you were in that room.

11 A I don't --

12 Q You're the administrator of the building,
13 right?

14 A Right. I don't know exactly what her
15 agreement was or if she -- I think she said that she
16 would prefer to resign. I believe.

17 Q When you say I don't know what her
18 agreement was, you never left your office and she
19 talked to Barry by herself, correct?

20 A Yes. But I think Jane -- I think Jane had
21 an employee meeting with Bob or Barry sometime
22 during that process. I'm not sure. I never saw any
23 information regarding that.

24 Q No. All I want to know is, because I
25 wasn't in the room, it was you and Jane and

1 apparently Barry by phone, and was Jane fired or did
2 Jane resign?

3 A I think she said I'll resign.

4 Q Okay. So it's your testimony she
5 resigned?

6 A To the best of my recall, she resigned.

7 Q Did you contest her unemployment?

8 A I didn't, no.

9 (Whereupon, Plaintiff's Exhibit 23
10 was marked for identification.)

11 Q Handing you what's been marked as
12 Plaintiff's Exhibit 23. Have you seen this document
13 prior to today?

14 A Yes, I do remember this.

15 Q For the record, what does this document
16 appear to be a copy of?

17 A It's an e-mail from me to Susan Kreuser.

18 Q Okay. It looks like -- will you start on
19 the last page. You say, Susan, enclosed are the
20 statements I took, which may or may not have been
21 included in Jane's employee file. Thanks.

22 Did you canvass all the employees who
23 witnessed or may have witnessed Jane's alleged
24 confrontation with Kelsey or did you only go off of
25 what Kelsey told you?

1 A I didn't canvass really any of the
2 employees.

3 Q Well, you got statements from employees?

4 A Correct. But aside from taking the
5 statements from the employees, I didn't do any
6 follow-ups.

7 Q But you only took the statements of the
8 employees that Kelsey told you to take, that
9 witnessed the incident, correct?

10 A Yes. Correct.

11 Q Did you ask those witnesses if there was
12 anyone else around? In other words, try to find all
13 of the witnesses, not just the ones Kelsey points
14 out?

15 A I didn't ask them anything other than to
16 produce their statements.

17 Q Uh-huh. Susan then sends to you what day
18 did we suspend Jane. Why did she ask that? I mean,
19 did you contact her and say why did you ask me
20 something like that?

21 A Well, I pretty much say here Jane was
22 never suspended.

23 Q Yeah. But why did Susan, if you know,
24 presume Jane had been suspended? Had she called you
25 and said anything?

1 A No. But normally whenever there's any
2 type of physical or a verbal abuse, the standard
3 practice in these facilities is to suspend the
4 person that might be involved while you're
5 investigating.

6 I didn't suspend Jane. I did ask her to
7 come in and tell us what happened. And I think Bob
8 tried to reach her. Whether he was successful or
9 not, I don't know.

10 Q You write when she did finally come in, I
11 met with her in person --

12 A Yes.

13 Q -- and Barry was on speaker phone?

14 A Yes.

15 Q She willingly resigned and said she didn't
16 feel well enough to empty out her office that day
17 but would return over the weekend; do you see that?

18 A Yes, I do.

19 Q All right. So you wrote she willingly
20 resigned? You wrote that, right?

21 A Yes, I did. And I feel like she resigned.

22 Q Okay. See you're hedging. You feel like
23 she resigned or she did resign? Here you write she
24 willingly resigned.

25 A Well, when Barry asked for her

1 resignation, she said I resign.

2 Q Okay. Did you report this alleged
3 incident to the Ohio Board of Nursing?

4 A No. I don't think so.

5 Q Okay. Did you report this alleged
6 incident to the prosecutor?

7 A No.

8 Q Did Jane ever tell you that she put her
9 hands on Kelsey?

10 A Jane couldn't tell me anything. She
11 couldn't recall anything that happened much. She
12 said that they had been -- they had raised their
13 voices, something along that, but when I asked her
14 if she had ever done anything to Kelsey, she
15 couldn't recall.

16 Q Well, she said that -- she never said to
17 you that she put her hands on Kelsey?

18 A No, she did not.

19 Q She never said she pinned Kelsey against
20 the wall?

21 A No.

22 Q Who -- did anybody other than Kelsey tell
23 you she got pinned against the wall?

24 A I believe Ciara did, the STNA that was in
25 the hallway.

1 Q I think that Ciara writes in the
2 second-to-last paragraph, Kelsey kept trying to
3 explain to Jane that she was just doing what she was
4 told. Jane kept getting more and more mad. She
5 grabbed Kelsey's shoulder and shoved her back
6 against the wall and was about five or six inches
7 away from Kelsey's face. Was telling Kelsey that
8 she needed to get it through her head and to listen
9 to Jane. Right after, Darla asked me to help her
10 with residents, so I left. So according to this, it
11 looks like Ciara says that Jane shoved Kelsey once
12 into the wall, right?

13 A Right.

14 Q Okay. You somehow conclude that she
15 pinned Kelsey twice into the wall, correct?

16 A Correct.

17 Q What's that based on? You didn't see it,
18 so whose statement are you relying on?

19 A That, I was relying on Kelsey's statement
20 and the fact that Jane put her hand on the employee.
21 Whether it was once or twice, once was significant.

22 Q Did you ever get the feeling that Kelsey
23 was just setting up the agency? In other words,
24 Jane may have touched her and she acted like Jane
25 pushed her back into the wall?

1 A No.

2 MR. GARRISON: John, just curious how
3 much on time?

4 MR. FRANKLIN: I don't have much
5 more.

6 MR. GARRISON: Okay.

7 MR. FRANKLIN: In fact, let's take
8 five minutes right now.

9 MR. GARRISON: Okay.

10 (Whereupon, a recess was taken at
11 4:51 p.m. and resumed at 4:55 p.m.)

12 BY MR. FRANKLIN:

13 Q Did you ever talk to Jane about retiring?

14 A I didn't. We talked about retirement,
15 what it would be like. I didn't -- Jane doesn't
16 have any specific retirement plans that I know of.

17 Q I'm sorry. I think I asked you one
18 question.

19 A Oh.

20 Q Did you ever talk to Jane about
21 retirement?

22 A Yes.

23 Q How often?

24 A I don't know, maybe once a year, twice a
25 year.

1 Q Did you tell Jane that you could get her a
2 good retirement package if she left the company?

3 A No.

4 Q Did you have any conversations with Jane
5 related to a retirement package?

6 A Not -- not really specifically with Jane.
7 Jane, I think, had a friend that was a nurse that
8 had some -- I don't know if she retired or quit or
9 what, but she got some kind of a settlement and I
10 think that was the conversation, something about
11 Linda Piper.

12 Q When did that take place?

13 A I don't remember the specifics.

14 Q Well, was it in 2013?

15 A Probably.

16 Q Was it shortly before she left employment?

17 A I don't recall the exact date.

18 Q Were you encouraging Jane to retire?

19 A No. I wasn't encouraging Jane to retire.
20 I think Jane was frustrated about retirement.

21 Q Were you frustrated about retirement?

22 A No. I'm too young yet.

23 Q Did you tell Jane that you wanted to get
24 out of St. Marys because it was too stressful?

25 A I don't recall saying that, no.

1 Q Did you want to replace Jane with someone
2 else as DON?

3 A No.

4 Q Did you ever tell her that?

5 A Did I ever tell her I didn't want --

6 Q That you wanted to replace her as DON?

7 A No, I don't recall that.

8 Q Did you tell her that you wanted a younger
9 DON?

10 A No.

11 Q Did you tell her that you wanted a DON
12 that was your age?

13 A No.

14 Q Was there anyone that you called to be a
15 DON after she lost her job? Did you have an interim
16 DON?

17 A I'm trying to remember who worked as an
18 interim DON. I think it might have been Katherine
19 Klosterman.

20 Q Was that someone you had worked with
21 before?

22 A Yes.

23 Q How did you get her to come and be an
24 interim DON?

25 A She was -- she actually works in the

1 building as the MDS nurse and I think Kat agreed to
2 fill in for a while until a permanent replacement
3 could be found. She did both jobs.

4 Q How old is Katherine?

5 A Katherine is probably 55, 56 maybe.

6 Q How old are you?

7 A 52.

8 Q So you and Katherine are about three years
9 apart?

10 A Maybe she's 59, but probably no more than
11 59 at the most.

12 Q Okay. How long did she hold the position?

13 A Probably two or three months maybe.

14 Q Did you offer her the position full time?

15 A No.

16 Q Why not?

17 A Kat loves her MDS work and she's a good
18 MDS nurse.

19 Q Well, did you ever ask her if she wanted
20 the position or are you just making all these
21 assumptions on her behalf?

22 A I don't recall if I ever specifically came
23 out and asked her. I think when we asked her to be
24 the interim, at that point she probably said, okay,
25 but nothing more, would be my guess.

1 Q Then who took over after Katherine?

2 A Katherine knew of a person. Her name is
3 Erika Ritenour.

4 Q How old is she?

5 A 35 maybe.

6 Q When you say Katherine knew of a person,
7 what do you mean by that? She recommended her for
8 the job?

9 A Yes, I think she did. Oh, she thought she
10 would be a good fit with her skills that she had.

11 Q Was she a DON somewhere else?

12 A She was an ADON, assistant director of
13 nursing.

14 Q Where at?

15 A A facility in Lima. It's a big one. I
16 think it's -- I don't remember the name of it.

17 Q Handing you what's been marked as
18 Plaintiff's Exhibit 7. Have you seen this document
19 in whole or part prior to today?

20 A Yes.

21 Q Okay. Which parts have you seen?

22 A I remember this part about the list of the
23 employees involved.

24 Q Okay. Where did you get that list from?

25 A I think I got the list from Kelsey.

1 Q Okay. You wrote over the weekend I asked
2 Jane to complete a statement, but I have not seen
3 anything yet and she called off sick today. Do you
4 see that?

5 A Yes.

6 Q At any point when you see Jane, do you ask
7 her for the statement?

8 A Well, I tried calling Jane a couple times,
9 I believe. I could not get through on her cell
10 phone. And I -- Bob had said that he was going to
11 call her and talk with her and get her statement, so
12 at that point I didn't pursue it any further.

13 MR. FRANKLIN: Teri, can you read
14 back my question.

15 (Whereupon, the court reporter read
16 back the previous question.)

17 A No.

18 Q Handing you what's been marked as
19 Plaintiff's Exhibit 8. Have you seen this document
20 prior to today?

21 A Yes, but I didn't remember it until today.

22 Q What does that mean?

23 A I just remembered this happened. I didn't
24 remember it the first time. Jane is not sure if
25 she'll be well enough to be here in the a.m. What

1 day was this? Monday. She said she has a doctor's
2 appointment today at 4:00 p.m. Her home number if
3 you want to talk to her directly. Okay. I -- maybe
4 I did make contact at her home number.

5 Q Why have you been telling me that you
6 weren't able to get hold of her?

7 A Because I didn't remember talking to her.

8 Q Okay. But you didn't tell me you didn't
9 remember. You said you didn't.

10 A I don't remember talking to her and I
11 didn't remember actually getting a hold of her at
12 any number. I tried a couple of times on different
13 phone numbers. I don't remember us making contact.

14 Q Okay. So even seeing this, are you trying
15 to tell me you didn't talk to her?

16 A I don't remember talking with her.

17 Q Okay. Well, I don't remember is a lot
18 different than --

19 A Okay.

20 Q -- I didn't talk to her.

21 A Okay. Well, I don't remember talking to
22 her.

23 Q And the number that you're giving Bob is
24 her home phone number?

25 A Yes.

1 Q And then you said I'm giving you this
2 because her cell phone appears to be out of service.
3 What did you mean by that?

4 A I tried calling it and I couldn't get it
5 to go through. I don't remember.

6 Q What do you mean you couldn't get it to go
7 through? With the voice mail? Didn't ring? What
8 happened?

9 A I don't remember. I just know I couldn't
10 get it to go through for a period of time.

11 Q Okay. But how do you know the problem
12 wasn't on your end, like your cell phone was --

13 A It could have been. It could have been.
14 It could have been my phone.

15 Q Handing you what was previously marked as
16 Plaintiff's Exhibit 9. Have you seen this document
17 prior to today?

18 A Yes.

19 Q For the record, what does this document
20 appear to be a copy of?

21 A It's a copy of an e-mail from myself to
22 Susan Kreuser.

23 Q Okay. Well, it starts out Kelsey
24 Quellhorst, STNA, called me early in the morning
25 4/20/13. I returned her call around 10:00 a.m. the

1 next morning. Now, when you're writing that to
2 Susan, you're telling her that Kelsey called, but
3 when you testified -- early in the morning, but when
4 you testified here earlier, you told me it could
5 have been anyone in the world?

6 A I remember -- I thought I remembered a
7 call coming in from Kelsey in the early morning
8 hours, but I wasn't sure.

9 Q Well, you didn't write that on this
10 document. You didn't write I wasn't sure. You said
11 STNA called me early in the morning. I returned her
12 call around 10:30 a.m.

13 A This took place on June 10th of 2013. I
14 may have been fresher in memory on June 10th of 2013
15 than I am today.

16 Q So we're to disregard what you said here
17 today and just go on what may be written in a
18 document from a year and a half ago?

19 A I would say that Kelsey probably called me
20 early in the morning on 4/20.

21 Q Okay. In spite of what you testified here
22 today that it could have been anyone in the world?

23 A I think I said initially it probably was
24 Kelsey, but you couldn't -- I couldn't verify her
25 phone number.

1 Q Okay.

2 A So I'm assuming, looking at this, it
3 probably was Kelsey.

4 Q Looking at this document refreshes your
5 recollection that it could have been Kelsey, even
6 though you don't know whose number called you?

7 A I don't recall. I couldn't recall when
8 you asked me earlier if it was her that called me in
9 the early morning. I told you I thought it was from
10 Kelsey. I couldn't remember for sure. And then I
11 returned her call at 10:30 the next morning and
12 that's what she told me.

13 Q She told me Jane had grabbed her
14 physically, shoved her into the wall and held her
15 there. When she tried to escape, Jane went after
16 her again. She was tearful, humiliated, and angry.

17 A Yes.

18 Q Those are all things she said to you?

19 A That was my impression of her demeanor
20 over the phone.

21 Q So over the phone, you were able to
22 discern that she was humiliated?

23 A She told me she was humiliated.

24 Q She also told you she was angry?

25 A No, but I could tell from the tone of her

1 voice she was very angry, and she was crying.

2 Q Yet she was tearful?

3 A And she was crying, yes.

4 Q You write in the third paragraph, I then
5 immediately text Jane and asked her to call me. She
6 did return my call that morning, and I questioned
7 her about what took place between her and Kelsey
8 late Friday afternoon. She said that Kelsey was
9 argumentative, but Jane did not recall anything else
10 unusual about their meeting in the hallway.

11 A Right.

12 Q Did you expect Jane to recall a negative,
13 something that didn't happen?

14 A No. I just asked her what happened.

15 Q Okay. And she said she didn't -- nothing
16 unusual happened, correct?

17 A She didn't recall anything specific, no.

18 Q You write this was the last time I talked
19 with Jane prior to our final meeting. She called
20 off to Gabby Chavarria, LPN, on Monday morning and
21 was off work due to illness Monday, Tuesday,
22 Wednesday. Is that your recollection that she
23 called off to Gabby?

24 A It is now. I thought she called off to
25 Claudette, but seeing this, she probably did call

1 off to Gabby. I don't remember exactly who she
2 called off to.

3 Q Well, you didn't tell me that earlier.
4 You said earlier she called off to Claudette. You
5 didn't say I think she called off to Claudette or
6 maybe she called off to Claudette. You said she
7 called off to Claudette?

8 A I assumed she called off to Claudette
9 because Claudette brought me the note, the call-in
10 slip.

11 Q I mean you realize you're under oath,
12 right?

13 A I do.

14 Q Okay.

15 A But I'm doing it to the best of my memory.

16 Q Handing you what's been marked as
17 Plaintiff's Exhibit 1. Let me know when you're
18 done.

19 A Okay.

20 Q Did you review this document in
21 preparation for your deposition?

22 A I reviewed it. I remember reading it,
23 yes.

24 Q Okay. Did you -- were you able to look at
25 this document during the time of the incident or are

1 you just looking at it now to refresh your
2 recollection?

3 A I'm looking at it now to refresh my
4 recall.

5 Q You hadn't seen it before today?

6 A I don't -- I'm sure I must have, but I
7 don't recall it.

8 Q Why do you think you must have? It
9 doesn't say to you anywhere in here.

10 A Well, I'm thinking maybe Bob reviewed this
11 at some point with me sometime.

12 Q Are you guessing?

13 A I'm guessing. I don't know. I don't
14 remember seeing this exactly.

15 Q My only question is had you -- do you have
16 any recollection of seeing it before the lawyers may
17 have given it to you to review for today's
18 deposition?

19 A I believe at some point I did see this
20 before today.

21 Q Okay. When?

22 A I don't recall. Sometime during those
23 three days, probably more towards the end, but I
24 don't recall for sure.

25 Q Well, how did you get a copy of the

1 document? I mean, I don't see your name on it
2 anywhere. I don't see that it was sent to you or to
3 the facility.

4 A I don't know. I just -- I think I read
5 this before, but I don't remember how I would have
6 gotten a copy.

7 Q I want to go back to the previous
8 document, Plaintiff's Exhibit 9. You have it in
9 your hand. Why were you writing this document on
10 June 10th?

11 A I don't know. I don't know what I was
12 responding to.

13 Q Well, the parts that are blacked out, did
14 those have words in them?

15 A I don't know.

16 Q I mean, is it --

17 A I don't know. It looks --

18 Q -- like a symbol or do you recall it
19 having words up above?

20 A I don't recall it. I can't recall what
21 was above, if anything. I don't know.

22 Q Okay. I'm just wondering why you would be
23 creating this document about a month and a half
24 after the incident?

25 A It probably would have -- I don't know. I

1 don't know. I can't remember why, what this
2 specific document was for.

3 Q Well, when you're writing the document and
4 you're saying she was tearful and humiliated and
5 angry, are you looking at another document or are
6 you just remembering the phone call or what?

7 A I -- I -- I'm probably remembering the
8 phone call. This is from Susan Kreuser. I don't
9 remember what -- why she was asking me to do this.

10 Q No, it's not from Susan. It's to Susan.

11 A Oh, to Susan.

12 Q From you.

13 A Okay. I don't recall what initiated me to
14 send this information.

15 Q And I'm not asking that. I'm asking --
16 you're writing things like she was tearful,
17 humiliated, and angry. I'm asking if you were doing
18 that from memory --

19 A From memory.

20 Q -- or were you looking at another
21 document?

22 A No, that would have been from memory of
23 the phone call, I believe.

24 Q So this entire e-mail that you're writing,
25 you're doing from memory?

1 A Yes.

2 Q Okay. Even the part where you now change
3 and say this was the last time I talked with Jane
4 prior to our final meeting? She called off to
5 Gabby, and you have Gabby's last name, on Monday
6 morning, and was off due to illness Monday, Tuesday,
7 Wednesday. You were doing all that from memory?

8 A I don't recall in what context this was
9 being asked of me. I don't know if I had the file
10 in front of me, what it was for. I don't recall
11 that time, why I put this memo together or this
12 note.

13 Q Well, you put it together because
14 apparently Susan told you to put it together?

15 A Apparently, but I don't know what the
16 purpose of it was for.

17 Q Well, maybe she didn't want you to know
18 the purpose. She just asked you to put together the
19 document?

20 A That could be.

21 Q Okay. Do you recall asking her why?

22 A No, I don't.

23 (Whereupon, Plaintiff's Exhibit 24
24 was marked for identification.)

25 Q Handing you what's been marked as

1 Plaintiff's Exhibit 24. Have you seen this document
2 prior to today?

3 A When I created it.

4 Q Okay. Well, help me read the document.

5 It says to Claudette from
6 atrium@atriumlivingcenters. Who is that? Is that
7 your e-mail?

8 A I don't know who that is from Atrium to
9 Claudette, I don't know who she's --

10 Q Well, who's atrium@atriumlivingcenters?

11 A I don't know who that is.

12 Q Okay. Well, explain to me the bottom
13 portion of the document, if you can. Maybe you have
14 to explain it all to me at once. Who's asking who
15 for what?

16 A I'm sending -- I don't know. I don't
17 know. Maybe I asked her for a note or something. I
18 don't know if it matters, but she called and asked
19 me --

20 Q Well, who writes, Lorraine, I don't know
21 if it matters, but she had called and asked me to --
22 asked for me to put PTO because of the doctor taking
23 her off work for three days, bronchitis and being
24 really sick is what she said. Who writes that?

25 A I'm assuming it's Claudette, I guess.

1 Q Okay. Well, that's where I'm confused. I
2 mean, you tell -- you tell us initially she called
3 to Claudette. Then you say she talked to Gabby.
4 Then it looks like Claudette is telling you that she
5 actually talked to her, meaning Claudette. So which
6 is the real testimony?

7 A I don't know. I don't know who Jane
8 called into for sure. I know Claudette presented me
9 the note. At some point, I must have heard that it
10 was Gabby she called off to. I don't know for sure.

11 Q Well, it doesn't say anything about Gabby
12 in this e-mail. It says, Lorraine, I don't know if
13 it matters, but she had called and asked for me to
14 put on PTO because of the doctor taking her off work
15 for three days. Bronchitis and being really sick is
16 what she said. So isn't Claudette saying that Jane
17 talked to her?

18 A That's what it appears to be.

19 Q Then where are you getting this that she
20 talked to Gabby?

21 A I don't know, but at some point Gabby must
22 have told me that she talked with Jane or called
23 into Jane. Maybe she called both people. I don't
24 know.

25 Q Okay. Now, on June 6th, Claudette is

1 telling you that Jane called off to her, talked
2 about the three days, talked about bronchitis and
3 talked about being really sick. On June 10, you
4 send Susan an e-mail saying it's Gabby.

5 A I assumed she called off to Gabby
6 evidently at the time.

7 Q No. You knew on the 6th she said she
8 talked to me?

9 A I don't -- maybe she talked to both
10 people. I don't know.

11 Q You write to Susan, Jane called in first
12 thing Monday morning, 4/22, and she sent in or
13 dropped off a slip taking her off work the 22nd to
14 the 25th. I tried to talk to her on the phone on
15 the weekend and again on Monday a.m., and she did
16 not return my phone message. So you're telling
17 Susan that you weren't able to talk to Jane on
18 Monday. Is that what you're telling her?

19 A I don't recall talking with Jane on
20 Monday. I don't recall. I tried getting a hold of
21 Jane a couple times and was not successful. Maybe
22 we touched base on Monday, but I don't remember.

23 Q Okay. The record's going to show that you
24 talked to her on Monday and the record's going to
25 show that Jane talked to Claudette. Why are you

1 telling Susan -- why does it make sense in your mind
2 that she talked to Gabby and you didn't talk to her?

3 MR. GARRISON: Objection. Asked and
4 answered. Go ahead and answer if you can.

5 A I don't -- I talked to Gabby and Claudette
6 both during that day at some point. A note appeared
7 on my desk that Jane had called into work. I don't
8 know who she called off to and I don't know what
9 type of illness. It said ill. I don't know if she
10 talked to Gabby and Claudette both that day. I
11 don't know.

12 Q Well, you know she talked to Claudette
13 because Claudette told you she talked to her?

14 A This was on June 6th.

15 Q Right. And on June 10th you're telling
16 Susan that it was Gabby?

17 A Well, for some reason on June 10th, I had
18 the impression it was Gabby.

19 Q Okay. Well, what happened between
20 June 6th and June 10th that caused you to have the
21 impression it was Gabby?

22 A I don't know. I don't recall anything
23 specific.

24 MR. FRANKLIN: Okay. Okay. Let's
25 take five.

1 MR. GARRISON: Sounds good.

2 (Whereupon, a recess was taken at

3 5:29 p.m. and resumed at 5:34 p.m.)

4 (Whereupon, Plaintiff's Exhibit 25

5 was marked for identification.)

6 BY MR. FRANKLIN:

7 Q Handing you what's been marked as
8 Plaintiff's Exhibit 25. Have you seen this document
9 prior to today?

10 A Yes.

11 Q For the record, what does this document
12 appear to be a copy of?

13 A It's an employment application.

14 Q For who?

15 A Erika Neimeyer.

16 Q For what position?

17 A Director of nursing.

18 Q Okay. And it looks like she was referred
19 by Katherine Klosterman?

20 A Yes.

21 Q Is that true?

22 A Yes.

23 Q Okay. It says that she worked at
24 Cridersville Healthcare PRN, what does PRN stand
25 for?

1 A It's kind of working just on casual pool.

2 Q Okay. But what does the initials PRN
3 stand for?

4 A As needed.

5 Q Okay. Does she still work there, if you
6 know?

7 A I don't know.

8 Q Does she still have employment with Baton
9 Rouge Senior Healthcare Service, if you know?

10 A I don't know.

11 Q Okay. It looks like she signed this
12 application on 4/27/13; is that fair?

13 A (Witness nodded.)

14 Q Do you recall when she started?

15 A No, I don't.

16 (Whereupon, Plaintiff's Exhibit 26
17 was marked for identification.)

18 Q Handing you what's been marked as
19 Plaintiff's Exhibit 26. Have you seen this document
20 prior to today?

21 A Yes.

22 Q For the record, what does this document
23 appear to be a copy of?

24 A A copy of Erika's resume.

25 Q Okay. It shows her education as James A.

1 Rhodes State College December 2010, associate's
2 degree, dash, nursing, RN, correct?

3 A Yes.

4 Q Where it says BL -- BLS, slash, CPR
5 certified, what does that mean?

6 A I believe it stands for basic life
7 support, cardiopulmonary resuscitation.

8 Q Okay. Who checks out the employee's
9 background before they're interviewed for the job?

10 A It would probably be me and/or Claudette,
11 the HR person.

12 Q Did you check out Erika's background?

13 A I don't remember if I did her references
14 or not.

15 Q Okay. But who checks with the State of
16 Ohio to make sure that she doesn't have any type of
17 criminal history that would preclude her from
18 working in a skilled nursing facility?

19 A That would be HR.

20 Q So it's somebody outside of your location
21 or are you saying it's HR meaning Claudette?

22 A I don't know if it's Claudette or if it's
23 at a corporate level for a DON.

24 Q You said corporate for a DON?

25 A I'm not sure who does it.

1 Q Was there ever any discussion about Jane
2 needing FMLA leave to cover the days that she was
3 off sick?

4 A I don't remember hearing anything about
5 that.

6 Q What do you remember -- what do you mean
7 you don't remember hearing?

8 A I don't remember hearing or talking to
9 Jane about FMLA.

10 Q Not Jane. Was there any discussion with
11 management about Jane potentially needing FMLA leave
12 to cover the times that she was off?

13 A No.

14 Q No? There was no discussion?

15 A I don't -- not that I recall.

16 Q Okay. So you're saying there may have
17 been, you just don't have present day recollection?

18 A Correct.

19 MR. FRANKLIN: I have no further
20 questions of this witness.

21 MR. GARRISON: Nothing here.

22 Reserved.

23 (Whereupon, the deposition was
24 concluded at 5:39 p.m.)

25 - - -

LORRAINE R. FISCHIO
LORRAINE R. FISCHIO

C-E-R-T-I-F-I-C-A-T-E

I, Teri Genovese Mauro, a Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named Witness, LORRAINE R. FISCHIO was by me first duly sworn to tell the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by her was by me reduced to stenotype in the presence of said Witness, afterwards transcribed upon a computer; that the foregoing is a true and correct transcription of the testimony so given by her as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment.

I do further certify that I am not a relative, employee or attorney of any of the parties hereto, or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Toledo, Ohio, on this 23rd day of September, 2014.

	TERI GENOVESE MAURO
My Commission expires	Notary Public
June 8, 2018.	in and for the State of Ohio